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A Proposal for

THE CHARTER

OF

THE CITY OF OAKLAND

Council-Mayor Form of Government

[Citizens for Responsive Government]

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**THE CHARTER
OF THE
CITY OF OAKLAND**

In Effect January 28, 1969

We, the people of the City of Oakland, the State of California, do ordain and establish this Charter as the fundamental law of the City, under the Constitution of the State of California.

**ARTICLE I
POWERS AND FORM OF GOVERNMENT**

Section 100. **Name.** The municipal corporation now existing and known as the City of Oakland shall remain and continue a body politic and corporate in name and fact by the name of the City of Oakland, and by such name shall have perpetual succession.

Section 101. **Boundaries.** The boundaries of the City of Oakland, as they exist on the effective date of this Charter, shall continue until changed in the manner authorized by law.

Section 102. **Rights in Succession.** The City of Oakland, hereinafter termed the City, shall have, exercise, and enjoy all the rights, immunities, powers, benefits, privileges and franchises now possessed, enjoyed, owned or held by it.

Section 103. **Continuance of Laws.** All lawful ordinances, resolutions, rules and regulations or portions thereof now in force and not in conflict or inconsistent herewith are continued in force until they have been duly repealed or amended.

Section 104. **Continuance of Officers and Employees.** All officers and employees of the City now serving shall continue in their offices or employments until removed or replaced in the manner prescribed by the authority of this Charter.

Section 105. **Transfer of Records and Property.** The transfer of any function from one department to another by this Charter or by any lawful ordinance or administrative authority also authorizes the corresponding transfer of all records, property, and equipment necessary to such function.

Section 106. **General Powers.** The City shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in these Charter; provided, that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to exercise, and all the rights, powers and privileges heretofore or hereafter granted or prescribed by the general laws of the State including those specifically applicable to general law cities; provided, also, that where the general laws of the State provide a procedure for the carrying out and the enforcement of any rights of powers

belonging to the City, said procedure shall control and be followed unless a different procedure shall have been provided in the Charter or by ordinance.

It is the intention of the people in adopting this section to take advantage of the provisions of Section 6 of Article XI of the Constitution of the State of California giving cities Home Rule as to municipal affairs.

Section 107. **Form of Government.** The government provided by this Charter shall be known as the Council-Mayor form of government.

ARTICLE II THE COUNCIL

Section 200. **Composition of the Council.** The Council shall consist of nine Councilmembers, nominated and elected as hereinafter provided.

Section 201. **Qualifications.** No person shall be eligible for or continue to hold the office of Councilmember, either by election or appointment, unless he or she is a citizen of the United States, a qualified elector, a resident for at least thirty days of the City or of a territory lawfully annexed or consolidated, and a resident of the district from which he or she may be a candidate for at least thirty days immediately next preceding his or her nomination or appointment. (Amended by: Stats. November 1988.)

Section 202. **Compensation.** The members of the Council shall each receive the compensation heretofore provided by Charter, until changed by Charter amendment or by ordinance.

Section 203. **Nomination and Election of Councilmembers.** Seven Councilmembers shall be nominated from districts and two shall be nominated at large. The Councilmembers-at-large shall be nominated and elected by the qualified electors of the City at large. The District Councilmembers shall be nominated and elected by the qualified electors of their respective districts. The districts shall be as they exist upon the taking effect of the section, until revised by ordinance. In the year 1984, and every six years thereafter, and whenever and substantial territory is annexed to or consolidated with the City, the Council shall form new districts not exceeding seven. Districts shall be composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable. No change in the boundary of a district shall operate to exclude an incumbent from office before the expiration of the term for which he was elected or appointed. (Amended by: Stats. October 1980 and June 1990.)

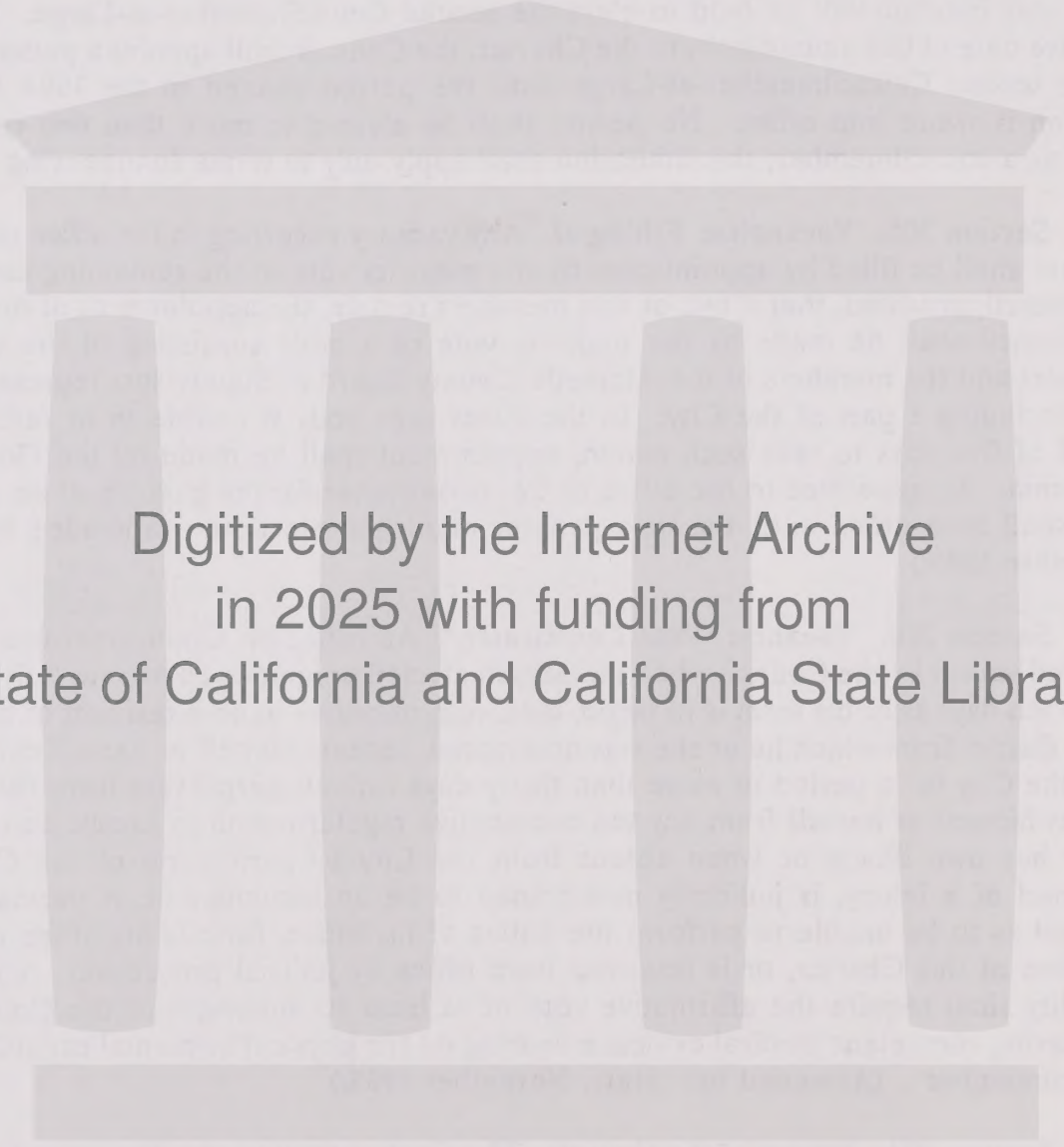
Section 204. **Term of Office, Council.** The Councilmembers shall be elected to a term of four years beginning at 11:00 a.m. on the Monday following January 1 following their election. The Councilmembers elected or appointed to office to serve terms beginning in 1985 shall serve in office until 11:00 a.m. on the Monday following January 1 in 1991. The Councilmembers elected or appointed to office to serve terms beginning in 1987 shall serve in office until 11:00 a.m. on the Monday following January 1, 1993. In 1990 Municipal

Elections will be held to select City officers for four year terms for the following offices: Councilmember, District #2; Councilmember, District #4, and, Councilmember, District #6. In 1992 Municipal Elections will be held to select City Councilmembers for four year terms for the following offices: Councilmember, District #1; Councilmember, District #3; Councilmember, District #5; Councilmember, District #7; and one Councilmember-At-Large. (Amended by: Stats. November 1988.) In 1994 in addition to the other elections a Municipal Election will be held to elect the second Councilmember-at-Large. Upon the effective date of this amendment to the Charter, the Council shall appoint a person to serve as the second Councilmember-at-Large until the person elected in the 1994 Municipal Election is sworn into office. No person shall be elected to more than two consecutive terms as a councilmember; this limitation shall apply only to terms commencing in 1994.

Section 205. Vacancies: Filling of. Any vacancy occurring in the office of Councilmember shall be filled by appointment by the majority vote of the remaining members of the Council; provided, that if two or less members remain, the appointment of members of the Council shall be made by the majority vote of a body consisting of the remaining members and the members of the Alameda County Board of Supervisors representing districts including a part of the City. In the event such body is unable to or fails within a period of five days to take such action, appointment shall be made by the Governor of California. An appointee to the office of Councilmember for the balance of an unexpired term shall hold office until the next general municipal election. (Amended by: Stats. November 1988.)

Section 206. Vacancy: What Constitutes. An office of Councilmember shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after his term is to begin, dies, resigns, ceases to be a resident of the City or of the district from which he or she was nominated, absents himself or herself continuously from the City for a period of more than thirty days without permission from the Council, absents himself or herself from any ten consecutive regular meetings except on account of his or her own illness or when absent from the City by permission of the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his office, forfeits his office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the Councilmember. (Amended by: Stats. November 1988.)

Section 207. Powers of the Council. The Council shall be the governing body of the City. It shall exercise the corporate powers of the City and, subject to the expressed limitations of this Charter, it shall be vested with all powers of legislation in municipal affairs adequate to provide a complete system of local government consistent with the Constitution of the State of California. It shall have no administrative powers. The council shall fix the compensation of all City employees, officers and officials except as otherwise provided by this Charter. (Amended by: Stats. November 1988.) The Council may provide for the appointment of staff who shall serve the Councilmembers individually or collectively. The Council may establish an office of the Legislative Analyst. The Legislative Analyst shall be responsible for providing analysis of fiscal matters, developing policy statements which



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may be the basis of legislation, summarizing and reviewing administrative reports and recommendations, and providing such other technical assistance as the Council may require to perform its duties. The Legislative Analyst shall be appointed by the Council and serve at the pleasure of the Council. The Legislative Analyst may appoint such other staff members as authorized by the Council.

Section 208. Meetings of the Council. At 11:00 a.m. on the first Monday following January 1 following each General Municipal Election, the Council shall meet at the established Council meeting place, at which time and place the newly elected members of the Council shall assume the duties of their office; and at such meeting, and at the first meeting in January in even-numbered years, the Council shall elect a President from among its members to serve for a one-year term. Thereafter the Council shall meet regularly at the time and place fixed by resolution. Special meetings may be held at the regular place of meeting and shall be called, and notice thereof given, by the City Clerk upon the written request of the Council President, the Mayor, or three members of the Council and such notice shall state the special subject to be considered at the special meeting; and no other subject shall be there considered. Regular or special meetings may be held at places other than the regular meeting place only in an emergency in which the regular meeting place is untenable, or for some purpose of public convenience, upon the posting of a public notice at the regular meeting place that the Council is meeting elsewhere, to be designated on the notice. (Amended by: Stats. June 1988.)

Section 209. Duties of President of the Council. The President of the Council shall be the presiding officer of the Council. In addition, upon the vacancy in the Office of Mayor, the Office of Mayor shall be filled by the President of the Council. In the event of a vacancy in the Office of President of the Council due to death, disability, disqualification or absence or in the event the President of the Council is required to fill the Office of Mayor, the Council shall choose an Acting President from among its members who shall serve until the previously elected President is able to return to office or that person's term expires.

Section 210. Quorum. Five members of the Council shall constitute a quorum for the transaction of business, but a lesser number may adjourn.

Section 211. Council Action. The Council shall provide by resolution for the order of business and the rules of procedure for the conduct of Council meetings. The Council shall act by ordinance or resolution or motion. The "ayes" and "noes" shall be taken on the passage of all ordinances and resolutions and entered upon the journal of the Council's proceedings. Each proposed ordinance or resolution shall be introduced in written or printed form. The affirmative vote of five members of the Council shall be required to adopt any ordinance or resolution, except as otherwise provided by this Charter or by general law.

Section 212. Enactment of Ordinances. In addition to such other action of the Council as is required by statute or by this Charter to be by ordinance, every act of the Council establishing a penalty or granting a franchise shall be by ordinance. The enacting clause of all ordinances shall be: "The Council of the City of Oakland does ordain as follows."

Section 213. **Adoption and Amendment of Ordinances.** Except for emergency ordinances, no ordinance shall be adopted by the Council on the day of its introduction, nor within five days thereafter, nor except at a regular or adjourned regular or special meeting. If an ordinance is altered after its introduction (except for the correction of typographical or clerical errors), it shall not be adopted except at a regular or adjourned regular or special meeting held not less than five days after the date of such alteration. Any section or subsection of an ordinance may be amended solely by the reenactment of such section or subsection at length as amended.

Section 214. **Emergency Ordinances.** Any ordinance declared by the Council to be necessary for preserving the public peace, health, or safety in an emergency, and containing a statement of the reasons constituting such necessity, may be introduced and adopted at the same meeting if passed by the affirmative vote of at least six members. Appropriations to meet an urgent need for public expenditure to protect the public health, safety, or welfare may be made as an emergency ordinance.

Section 215. **Publication.** Before final adoption of an ordinance, its title, a digest thereof, a notice showing the vote on its introduction and the date, time, and place of hearing on its final adoption, and notice that three full copies thereof are available for use and examination by the public in the office of the City Clerk, shall be published once in the official newspaper of the city at least three days before said hearing date. Notice of the adoption of an emergency ordinance, the vote thereon, its title, and a digest thereof shall be similarly published once within three days after its adoption. The notices and digests shall be prepared by the City Attorney.

Section 216. **Action by the Mayor.** Each proposed resolution or ordinance voted on by the Council that is not approved by the Council and each ordinance or resolution adopted by the Council shall, within forty-eight hours of such action, be transmitted to the Mayor by the City Clerk, with appropriate notation of the action of the Council thereon. Any ordinance or resolution adopted by the Council as an emergency measure shall be acted upon by the Mayor within four calendar days after receipt thereof by the Mayor from the City Clerk. All other ordinances or resolutions shall be acted upon by the Mayor within ten days of such receipt.

The Mayor shall either approve each resolution or ordinance adopted by the Council by signing and returning same to the City Clerk within the required time limit, or shall disapprove and veto any resolution or ordinance and shall return each such resolution or ordinance to the City Clerk with his or her written objections within the required time limit. Failure to make such return within the required time limit shall constitute approval and such ordinance, resolution, or item shall then take effect without the Mayor's signed approval. The City Clerk shall note such fact on the official copy of such resolution or ordinance.

Any proposed resolution or ordinance voted on by the Council that is not approved by the Council shall be reconsidered by the Council on the written request of the Mayor, stating his or her reasons therefore, filed with the City Clerk by the Mayor within ten days after the Council's action on such resolution or ordinance. The Council shall reconsider

such measure at its convenience, but not later than thirty days after the filing of the Mayor's request therefor.

Notwithstanding the above, the action or failure to take action by the Council regarding appeals from decisions of the Planning Commission shall be final and the Mayor shall not have the right to veto or require the reconsideration of such decisions.

Section 217. Enactment Over Veto. The Council may reconsider any resolution or ordinance vetoed or disapproved by the Mayor and if, after such reconsideration, six members of the Council shall vote in favor of passage thereof, it shall become effective notwithstanding the Mayor's veto. If a larger vote is required for the adoption of a measure by the provisions of this Charter, such larger vote shall be required to overcome the veto of the Mayor. If such vetoed resolution or ordinance is not passed over the Mayor's veto within thirty days of such veto, the measure shall be lost.

Section 218. Codification. The duly adopted and effective ordinances of the City may be compiled and arranged as comprehensive codes, which may be adopted by reference by the passage of an ordinance for such purpose.

Section 219. Effective Date of Ordinance. An ordinance or resolution receiving upon final adoption the affirmative vote of at least six members of the Council shall be effective immediately after approval by the Mayor or upon expiration of the time for action by the Mayor as provided in Section 216, or approval by Council after veto by the Mayor, pursuant to Section 217, unless a later date is specified in the ordinance or resolution. All other ordinances and resolutions, unless a different date is required by this Charter, shall be effective on the seventh day after approval by the Mayor or the seventh day following the expiration of the time allowed for action by the Mayor if the Mayor does not act as provided in Section 216, or approval by Council action after veto by the Mayor, pursuant to Section 217.

Section 220. Penalty for Violation of Ordinances. The Council may make the violation of its ordinances a misdemeanor, which may be prosecuted in the name of the People of the State of California or may be redressed by civil action, and may prescribe punishment for such violations by a fine not to exceed \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

Section 221. Non-Interference in Administrative Affairs. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the Mayor and other appointed or elected officers are responsible, solely through the Mayor and such other officers as may be designated by the Mayor. Neither the Council nor any member shall give orders to any subordinate of the City under the jurisdiction of the Mayor or such other officers, either publicly or privately; nor shall they attempt to coerce or influence the Mayor, the Chief Administrative Officer, department heads of the City, or such other officers, in respect to administrative decisions concerning any contract, purchase of any supplies or any other administrative action; nor in any manner direct or request the appointment of any person to or removal from office by the Mayor, or any subordinates or such other officers, nor in any manner take part in the appointment or removal of officers

or employees in the administrative service of the City except as provided in Section 309 or as may be expressly requested by the Mayor. Violation of the provisions of this section by a member of the Council shall constitute official misconduct, conviction of which shall immediately forfeit the office of the convicted member; provided, however, that nothing in this Section shall restrict the power of hearing and inquiry as provided in this Charter. (Amended by: Stats. November 1988.)

Section 222. Hearings and Inquiries. The Council may require periodic or special reports of departmental costs, operations and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the City, and for that purpose Councilmembers may ask questions of any City official, director, department head or employee and the Council may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. It shall be the duty of the Chief of Police to designate a police officer to serve subpoenas. Any person refusing to obey such subpoena or to produce such books, shall be deemed in contempt and subject to proceedings and penalties as provided by general law in such instances.

Section 223. Ordinance: When Required. In addition to other actions required by law or by specific provision of the Charter to be done by ordinance, those actions of the Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency as authorized in Article VI of this Charter.
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- (3) Levy taxes except as otherwise provided in this Charter with respect to the property tax levied by adoption of the budget.
- (4) Regulate the rates charged for its services by a public utility.
- (5) Authorize the borrowing of money except as otherwise provided in Section 812 of this Charter.
- (6) Convey or lease, or authorize the conveyance or lease for longer than one year, of any real property of the City, or any interest therein, or the acquisition of real property, the purchase price of which is more than Five Thousand Dollars (\$5,000.00).
- (7) Amend or repeal any ordinance previously adopted.

Provided, acts other than those referred to hereinabove under this section, or other than may be specifically otherwise provided for in other sections of this Charter, may be done either by ordinance or by resolution.

ARTICLE III THE MAYOR

Section 300. The Mayor. The Mayor shall be nominated and elected from the City at large and shall receive an annual salary payable in equal monthly installments, and without any additional compensation or fees provided for in Section 202 of this Charter. The salary shall be set by the Council, which shall be not less than 70% nor more than 90% of the average salaries of City Managers/Chief Executive Officers of California cities within

the three immediate higher and the three immediate lower cities in population to Oakland. The Mayor's salary shall be reviewed by the City Council in odd-numbered years and may be adjusted by the Council as provided for herein. (Amended by: Stats. November 1988.)

Section 301. **Qualifications.** No person shall be eligible for or continue to hold the Office of Mayor, either by election or appointment, unless the person is a citizen of the United States, a qualified elector and resident for at least thirty days of the City or a territory lawfully annexed or consolidated. (Amended by: Stats. November 1988.)

Section 302. **Term of Office, the Mayor.** The Mayor shall be elected to a term of four years beginning at 11:00 a.m. on the first Monday of January following his or her election. No person shall be elected as Mayor for more than two consecutive terms; this provision shall apply only to terms commencing in 1994. (Amended by: Stats. November 1988.)

Section 303. **Vacancy, Filling Of.** Upon the declaration of vacancy in the office of the Mayor, the office of the Mayor shall be filled by the President of the Council. When the President of the Council assumes the office of Mayor upon declaration of a vacancy, the President shall serve until the vacancy is filled by the Council as provided herein. Any vacancy occurring in the office of Mayor shall be filled by appointment by the majority vote of the remaining members of the Council; provided, that if two or less members remain, the appointment of Mayor shall be made by the majority vote of a body consisting of the remaining members and the members of the Alameda County Board of Supervisors representing districts including a part of the City. In the event such body is unable to or fails within a period of five days to take such action, appointment shall be made by the Governor of California. An appointee to the office of Mayor for the balance of an unexpired term shall hold office until the next general municipal election. (Amended by: Stats. November 1988.)

Section 304. **Vacancy: What Constitutes.** The office of Mayor shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after the person's term is to begin, dies, resigns, ceases to be a resident of the City or is absent continuously from the City for a period of more than thirty days without permission from the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of the office, forfeits the office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the Mayor. (Amended by: Stats. November 1988.)

Section 305. **Functions, Powers and Duties.** The Mayor shall be the chief executive officer of the City, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall be responsible to the People of Oakland for the proper and efficient administration of all affairs of the City. The Mayor shall, subject to the provisions of Article VIII of this Charter and except as otherwise provided in this Charter, have the power to appoint, assign, reassign, discipline and remove all directors or heads of departments and all employees of

the City, except those under the direct supervision of an Officer of the City named in this Charter. The Mayor may delegate to the Chief Administrative Officer or directors or department heads responsible to the Mayor the authority to appoint, assign, reassign, discipline and remove subordinate employees, subject to Article VIII of this Charter.

In addition to these general responsibilities, the Mayor shall have the following specific duties:

- (a) To execute and enforce all laws and ordinances and policies of the Council and to administer the affairs of the City.
- (b) To provide community leadership and actively promote economic development to broaden and strengthen the commercial and employment base of the City.
- (c) To recommend to the Council such measures and ordinances as he or she may deem necessary or expedient and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable.
- (d) To investigate affairs of the City under the Mayor's supervision, or any franchise or contract for the proper performance of any obligation running to the City within his or her jurisdiction.
- (e) To control and administer the financial affairs of the City.
- (f) To prepare and submit an annual budget to the Council.
- (g) To prepare or cause to be prepared the plans, specifications, and contracts for work which the Council may order.
- (h) To supervise the purchasing of materials and supplies and to make recommendations to the Council in connection with the awarding of public contracts and to see that all City contracts under the Mayor's direction or that of the Council are faithfully performed.
- (i) To prepare and submit to the Council such reports as it may require.
- (j) To keep the Council at all times fully advised as to the financial condition and needs of the City.
- (k) To prescribe such general rules and regulations as the Mayor may deem necessary or expedient for the general conduct of the administrative departments under his or her jurisdiction.
- (l) To represent the City in its intergovernmental relations and to negotiate contracts for joint governmental actions, subject to Council approval.
- (m) To perform such other duties as may be prescribed by this Charter or by ordinance or resolution.

The Mayor shall devote his or her full time and attention to the duties of the Office of the Mayor and shall not engage in outside employment while in office. However, nothing shall prevent the Mayor from the receipt of income earned from business(es) or investment(s) in which he or she is not actively engaged and which are not in conflict with the performance of the Mayor's duties and responsibilities. (Amended by: Stats. November 1988.)

Section 306. Chief Administrative Officer. The Mayor shall, subject to approval of the Council, appoint a Chief Administrative Officer who shall be responsible to the Mayor

for the proper and efficient administration of the affairs of the City. He or she shall be a person of demonstrated administrative ability with experience in a responsible, important executive capacity and shall be chosen solely on the basis of his or her executive and administrative qualifications.

Section 307. **Compensation and Tenure.** The Chief Administrative Officer shall receive the salary fixed by the Mayor and approved by the Council. He or she shall be appointed for an indefinite term and shall be removable at the pleasure of the Mayor. The action of the Mayor in suspending or removing the Chief Administrative Officer shall be final.

Section 308. **Acting Chief Administrative Officer.** The Chief Administrative Officer shall designate two or more of his or her assistants or department heads, in the sequence in which they are to serve, to serve as Acting Chief Administrative Officer in the event of temporary absence or disability of the Chief Administrative Officer.

Section 309. **Confirmation of Directors and Department Heads.** The appointment of Directors of Departments or Department Heads by the Mayor or the Chief Administrative Officer, pursuant to Section 305, shall be subject to confirmation by majority vote of the Council.

ARTICLE IV CITY OFFICERS

Section 400. **Designation as Officer.** In addition to the Councilmembers and the Mayor, the officers of the City shall be the Chief Administrative Officer, the Legislative Analyst, the City Attorney, the City Clerk, the City Auditor, and such department heads, members of boards or commissions and executive officers of such boards and commissions as may be so designated by ordinance. The Chief Administrative Officer and the City Attorney may be hired by contract, for a term not to exceed seven years, notwithstanding the appointive and removal authority otherwise provided herein for the Council. (Amended by: Stats. November 1988.)

Section 401. **City Attorney.** The City Attorney shall be appointed or discharged by the Mayor, subject to approval by the Council, for an indefinite term. He or she shall, upon demand, be given a written statement of the reasons for any proposed removal and the right to be heard publicly at a meeting of the Council prior to the final vote on the removal, but pending such hearing and action the Council may suspend the City Attorney from office. The City Attorney shall receive the salary fixed by the Council which shall not be reduced except upon the adoption of an ordinance and like opportunity to be heard. The City Attorney shall advise all officers, boards, commissions, and other agencies of the City on legal matters referred to him or her and shall render written legal opinions when the same are requested in writing by a member of the Council or the Mayor or any other officer, board or commission of the City. He or she shall draft such ordinances, resolutions, contracts and other legal documents as directed by the Council or requested by the Mayor or any official board or commission of the City. The City Attorney shall act as counsel in behalf of the City or any of its officers, boards, commissions, or other agencies in litigation

involving any of them in their official capacity. He or she shall pass on the form and legality of all contracts of the City before the same are executed. The City Attorney shall not settle or dismiss any litigation brought for the City nor settle any litigation brought against the City which may be under his or her control unless upon his or her written recommendation the City Attorney is authorized to do so by the Council. He or she shall administer the office of City Attorney, and shall have the power to appoint, discipline and remove all officers and employees of the City Attorney's office subject to the provisions of Article VIII of this Charter. The Council may empower the City Attorney, at his or her request and without regard to the provisions of Article VIII, to employ special legal counsel, and the City Attorney shall have the power to employ appraisers, engineers and other technical and expert services necessary for the handling of any pending or proposed litigation, proceeding or other legal matter. Upon the City Attorney's recommendation and the approval of the Council, when he or she has a conflict of interest in litigation involving another officer of the City in an official capacity, such other officer may retain special legal counsel at City expense. (Amended by: Stats. November 1988.)

Section 402. City Clerk. The City Clerk shall be appointed or discharged by the Council. He or she shall be the Clerk of the Council and keep an accurate public record of all ordinances, resolutions and motions, shall have custody of the official seal and all official records committed to the City Clerk's care, make affidavits and administer oaths without charge in matters affecting the business of the City, conduct elections, and perform the other duties of a City Clerk under general law where not inconsistent with this Charter or the ordinances of the City. (Amended by: Stats. November 1988.)

Section 403. City Auditor. The City Auditor shall be nominated and elected in the same manner, for the same term, and at the same election, as the Mayor. To be eligible to the office a person must be a qualified elector of the State of California, and shall be a resident of the City at the time of filing nomination papers and for thirty (30) days immediately preceding the date of filing, and shall be certified by the California State Board of Accountancy as a Certified Public Accountant or by the Institute of Internal Auditors as a Certified Internal Auditor. The salary of the office shall be set by the Council and may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion. The City Auditor shall have the power and it shall be his or her duty to audit the books, accounts, money and securities of all departments and agencies of the City and such other matters as the Council or the Mayor may request; to report to the Council periodically the results of such audits and to advise and make recommendations to the Mayor regarding accounting forms design, fiscal and statistical reports and the methods or procedures for maintaining the accounts and accounting system throughout all departments, offices and agencies of the City. The City Auditor shall report to the Council instances of noncompliance with accepted accounting principles where recommendations for compliance have not been implemented by the Mayor after reasonable time and opportunity. The City Auditor shall be represented in all legal matters by the City Attorney except as provided otherwise in Section 401. (Amended by: Stats. November 1979.)

Section 404. Board of Education.

(a) Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties.

(b) Represent and work for the common good of the City and not for any private interest.

(c) Refrain from accepting gifts or favors or promises of future benefits which might compromise or tend to impair independence of judgment or action.

(d) Provide fair and equal treatment for all persons and matters.

(e) Learn and study the background and purposes of important items of business before voting or acting on such items.

(f) Faithfully perform all duties of office.

(g) Refrain from disclosing any information received confidentially concerning the business of the City, or received during any closed session of the City Council held pursuant to state law.

(h) Decline any employment incompatible with public duty.

(i) Refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members of the Council, City Officers, staff or members of the public, or other personal comments not germane to the issues.

(j) Listen courteously and attentively to all public discussions at Council or other public meetings of the City and avoid interrupting speakers, including other Council members, except as may be permitted by established Rules of Order.

(k) Faithfully attend all sessions of the Council at which their presence is required unless unable to do so because of disability or some other compelling reason.

(l) Maintain the highest standard of public conduct by refusing to condone breaches of public trust or improper attempts to influence legislation or city actions and seek to censure any City Officer who willfully violates the Code of Ethics contained in this section of the City Charter.

ARTICLE V ADMINISTRATIVE ORGANIZATION

Section 500. Administrative Organization Authorized. The Council shall by ordinance, upon recommendation by the Mayor, provide the form of organization through which the functions of the City under the jurisdiction of the Mayor are to be administered. Any combination of authorized duties, powers and functions which in the judgment of the Council will provide the most efficient and economical service possible, consistent with the public interest and in keeping with accepted principles of municipal administration, may be authorized by such ordinance. All departments or other administrative agencies so created shall be administered by the Chief Administrative Officer under the direction of the Mayor. (Amended by: Stats. November 1988.)

Section 501. Boards and Commissions. The Council may create by ordinance such operational, advisory, appellate or rule making boards and commissions as may be required for the proper operation of any function or agency of the city and prescribe their function, duties, powers, jurisdiction and the number of board and commission members, their terms, compensation and reimbursement for expenses, if any, subject to the provisions of this

Article. Members of boards and commissions shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council and may be removed for cause, after hearing by the affirmative vote of at least six members of the Council. Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made. (Amended by: Stats. November 1988.)

Section 502. Continuation. The departments, agencies, boards and commissions heretofore created by prior Charter, ordinance of administrative order, other than those provided for in Articles IV, V, VI and IX of the Charter, may be modified or discontinued by ordinance adopted pursuant to this Article and are hereby continued until so modified or discontinued. (Amended by: Stats. November 1988.)

ARTICLE VI PORT OF OAKLAND

Section 600. Establishment of a Port Department. To promote and more definitely insure the comprehensive and adequate development of the Port of Oakland through continuity of control, management and operation, there is hereby established a department of the City of Oakland known as the "Port Department."

Section 601. Board of Port Commissioners. The exclusive control and management of the Port Department is hereby vested in the Board of Port Commissioners, which shall be composed of seven (7) members who shall be appointed by the Council, upon nomination by the Mayor.

No person shall be appointed as, or continue to hold office as, a member of the board who is not at the time of his appointment, and has not been continuously for four (4) years immediately preceding his appointment, and who shall not continue to be during his term, a bona fide resident of the City of Oakland.

The members of the Board shall serve without salary or compensation. (Amended by: Stats. November 1988.)

Section 602. Organization, Terms of Office. The Board of Port commissioners shall consist of seven (7) members nominated by the Mayor and appointed by the Council for a term of four (4) years. Members in office at the time this section takes effect shall continue in office until their successors are appointed and qualified. For terms commencing July 10, 1969, two (2) members shall be appointed to fill the positions expiring upon that date, and two (2) additional members shall be appointed to bring the membership of said Board to seven (7); provided that the terms of such two additional members shall be for such original duration, in no event to exceed four years, as will insofar as practicable permit appointment at the end of subsequent terms of office of members, of either one or two members. (Amended by: Stats. November 1988.)

Section 603. Removal. Any member of the Board may be removed from office by the affirmative vote of six (6) members of the Council in the same manner and subject to the same conditions as the Council may remove the members of any of the boards provided for in the Charter in Article VI. (Amended by: Stats. November 1988.)

Section 604. **Ordinances and Resolution.** All action taken by the Board of Port Commissioners shall be by resolution, except as hereinafter set forth in this Article. Any member of the board may require a record of the vote on any resolution to be made in its minutes. The Board shall keep a minute book wherein shall be recorded the proceedings taken at its meetings and it shall keep a record and index of all of its resolutions and ordinances.

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least four (4) members of the Board.

To constitute an ordinance a bill must, before final action thereon, be passed to print and published with the ayes and noes at least once in the official newspaper of the City. Between the first and final readings at least five (5) days shall elapse. The enacting clause of all ordinances passed by the Board shall be substantially in these words:

Be it ordained by the Board of Port Commissioners of the City of Oakland as follows:

All ordinances shall be signed by the President or Vice-President of the board and attested by the Secretary.

A certified copy of each ordinance adopted by the Board shall be forthwith filed with the City Clerk, and the City Clerk shall keep a record and index thereof which shall at all times be open to public inspection. (Amended by: Stats. November 1988.)

Section 605. **Ordinances Required in Certain Cases.** All proceedings for the acquisition of real property by purchase, condemnation, or otherwise, or the granting of any lease longer than one (1) year, the fixing, regulating, and altering schedules of rates, dockage, wharfage, tolls, and charges for all public-owned docks, piers, wharves, slips and other facilities, and for services rendered by the Port Department, and the adoption of all general rules and regulations of the board, excepting administrative regulations of a temporary nature, shall be taken by ordinance. (Amended by: Stats. November 1988.)

Section 606. **Powers and Duties of the Board.** The Board of Port Commissioners shall have the complete and exclusive power, and it shall be its duty for and on behalf of the City:

(1) To sue and defend in the name of the City in all actions and proceedings wherein there is involved any matters within the jurisdiction of the Board.

(2) To make provisions for the needs of commerce, shipping, and navigation of the port, to promote, develop, construct, reconstruct, alter, repair, maintain, equip and operate all water front properties including piers, wharves, sea walls, docks, basins, channels, slips, landings warehouses, floating and other plants or works, dredge, and reclaim land, construct, equip and operate terminal trackage with sidings and turnouts and railroad connections between docks, piers and other port structures, and connect the same with mainline tracks, and to establish, equip and operate all other facilities or aids incident to the development, protection and operation of the port as may be deemed proper and desirable in its judgment, and it may modify its plans from time to time as the requirements of commerce, shipping and navigation may demand, and as part of such development an operation to provide for tugs, dredges, fireboats, barges, cold storage plants, and all other publicly owned facilities or appliances incident to the operation of the port, of such number and character, and in such places as the Board may deem feasible and proper.

(3) To take charge of, control, and supervise the Port of Oakland, including all the water front properties, and lands adjacent thereto, or under water, structures thereon, and approaches thereto, storage facilities, and other utilities, and all rights and interests belonging thereto, which are now or may hereafter be owned or possessed by the City, including all salt or marsh or tidelands and structures thereon granted to the City in trust by the state of California for the promotion and accommodation of commerce and navigation.

(4) To have control and jurisdiction of the part of the City hereinafter defined as the "Port Area" and enforce therein general rules and regulations, to the extent that may be necessary or requisite for port purposes and harbor development, and in carrying out the powers elsewhere vested in the Board.

Provided, however, that with the approval of the Council the Board may relinquish to the Council control of portions of the said area, and likewise, upon request of the Board, the Council may, by ordinance, enlarge the Port Area.

(5) To require owners of water terminal properties and facilities within the port to keep the same in proper condition and repair and to maintain them with especial reference to the reduction of fire hazard or nuisances, and it shall have the right to inspect such terminal facilities at reasonable times.

(6) To exercise all the powers pertaining to the waterfront, wharves, dredging machines, or the port and its operation and maintenance, which have been heretofore conferred upon the City and the Council by Section 106 of this Charter.

(7) To regulate the berthing, anchoring, towing, loading, unloading and mooring of vessels within the port.

(8) To handle, store and recondition all commodities; to sell or otherwise dispose of personal property within its possession or ownership, and, generally, to perform all services customary, necessary or expedient in connection with the development and operation of the port.

(9) To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession.

(10) To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the port, and for services rendered by the Port Department, and to provide for the collection thereof.

(11) To use, for loading and unloading cargo; with the right to collect tolls, dockage and the other terminal charges thereon, such portions of the streets of the City ending or fronting upon the water areas of the harbor of said City, as may be used for said purposes.

(12) To build piers, wharves, docks, bulkheads, slips or other structures, across and upon such streets, provided only that access be provided to the public at the shoreward end thereof.

(13) To lend its aid to secure the improvement of navigable tidal waters within or adjacent to the port, where, in its opinion, such improvements are economically justifiable, and in the general carrying out of its powers to cooperate with neighboring cities, other ports, the State of California, or the United States Government, and appear before state, federal and other public legislative and administrative authorities.

(14) To manage the business of the port and promote the maritime and commercial interests by proper advertisement of its advantages, and by the solicitation of business, within or without the port, within other states or in foreign countries, through such employees and agencies as it may deem expedient.

(15) To acquire in the name of the City by purchase, condemnation, gift, lease, or otherwise take over and hold all lands, property, property rights, leases, or easements, and personal property of every kind, necessary or convenient for the development and operation of the port, or for the carrying out of the powers herein granted to the Board. Whenever the Board determines that any lands owned by the City within its jurisdiction have become unnecessary for port purposes or harbor development, it may in its discretion transfer such lands to the control of the Council, free from all restrictions, or it may sell or exchange such lands, by ordinance subject to the referendum provisions of this Charter.

(16) To purchase materials and supplies.

(17) To enter into contracts, agreements, or stipulations (other than leases) germane to the scope of its powers and duties.

(18) To let all work by contract, or order it done by day labor, as the Board may determine.

(19) To have and exercise the right of eminent domain within the "Port Area" on behalf of and in the name of the City for port purpose, harbor development or the carrying out of any of the powers granted to said Board, and to exclusively find and determine by ordinance adopted by a two-thirds vote of all of its members the public interest and necessity thereof.

(20) To appoint a Port Attorney, whose duty it shall be to pass upon the form and legality of all contracts within the jurisdiction of the Board, give legal advice to the Board on official matters, defend and (subject to direction from the Board) prosecute or compromise all actions at law or inequity and special proceedings for or against the City or any officers thereof in his official capacity, pertaining to matters within the jurisdiction of the Board. The Board shall fix and provide for his compensation.

(21) To employ and appoint an Executive Director, and such other officers, employees and agents as may be necessary in the efficient and economical carrying out of its functions and to prescribe and fix their duties, authority and compensation, and to require such officers, employees and agents to give a bond in such an amount as the Board may require for the faithful discharge of their duties. All offices and places of employment in the permanent service of the Board shall be created by ordinance duly passed.

(22) To provide and equip offices.

(23) To provide in the Port Area, subject to the provisions of Section 727, for other commercial development and for residential housing development; provided that any residential housing development shall be approved by the Board with the consent of the City Council.

(24) To provide for financing of Port facilities through the issuance of bonds or other forms of debt instruments which are secured by a pledge of, or are payable from, all or any part of the revenues of the Port and/or which may be secured in whole or in part by interests, liens or other forms of encumbrance (other than in or on fee title in land) or lease in property. Such debt instruments shall be issued and sold in such manner and upon such terms and conditions, and shall contain such provisions and covenants, as the Board may fix and establish by the provisions of one or more procedural ordinances. Such debt instruments shall not constitute a debt, liability or obligation of the City of Oakland and shall be payable exclusively from revenues and other assets of the Port.

(25) To provide for the issuance and sale, or to cause the issuance and sale, of any form of equity instruments or securities which represent interests in property (other than fee title and land) used or owned by the Port and which participate in incidents of ownership

of such property; provided, that such property shall not include property of the Port which was owned or used by the Port prior to the date of the adoption of this Section. For the purpose of facilitating the issuance and sale of such equity instruments, the Port is authorized to create and to participate in legal entities, including but not limited to, trusts, corporations and partnerships, and to pledge and grant security interests, liens or other forms of encumbrance or lease in such property (other than fee title in land) to secure the repayment of such equity instruments. Such equity instruments, or combinations of debt and equity instruments, shall be issued and sold, and such entities created, in such manner and upon such terms and conditions, as the Board may fix and establish by the provisions of one or more procedural ordinances. Such equity instruments shall not constitute a debt, liability or obligation of the City of Oakland and shall be payable exclusively from revenues, other funds and property of the Port pledged thereto.

(26) To expend all funds necessary to the carrying out of the powers and duties herein expressed.

(27) To adopt and enforce such ordinances, orders, regulations and practices as are necessary for the proper administration and discharge of its duties and powers, or for the management and government of the port, and its facilities.

(28) To prescribe fines, forfeitures and penalties for the violation of any provision of this Article, or of any ordinance, but no penalty shall exceed Five Hundred Dollars (\$500.00) or six (6) months imprisonment, or both.

(29) To have and exercise on behalf of the City all the rights, powers and duties in respect to the subject matters herein provided for, that are now or which may hereafter be vested in the City, or any of its departments or officers, or which may be provided for general law.

(30) To do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City, or any of the provisions of this Article, and to exercise all powers not in conflict with the constitution of the State, or with this Charter, germane to the scope of its powers, purposes and duties. (Amended by: Stats. November 1988.)

Section 607. Operation of Facilities. Notwithstanding any other provision of this Charter to the contrary, the Board shall not be required to directly operate all of the properties, facilities and utilities under its control or jurisdiction, and shall have the power to authorize the operation of any of such properties, facilities and utilities by a private person, firm association or corporation, whether by lease, franchise, license, assignment, permit or otherwise, upon such terms and conditions as the board shall prescribe, which terms and conditions shall include control over the rates, charges and practices of said private party to the extent permitted by law. (Amended by: Stats. November 1988.)

Section 608. Building Permits. No persons shall construct, extend, alter, improve, erect, remodel or repair any pier, slip, basin, wharf, dock or other harbor structure, or any building or structure within the "Port Area" without first applying for and securing from the Board a permit so to do, in accordance with the rules and regulations adopted by it. IN approving or denying the right to said permit, the Board shall consider the application therefor, the character, nature and size and location of the proposed improvement, and exercise a reasonable and sound discretion in the premises.

Provided, however, that applications for building permits pertaining to privately owned property within the "Port Area" shall be made to the Executive Director who shall consider and act upon them in the same manner as applications for such permits made to the Board. Any person excepting to any denial, suspension or revocation of a permit applied for or held by him pursuant to the provisions of this section, or any person excepting to the granting of, or to the refusal to suspend or revoke a permit applied for or held under the provisions of this section, or any person excepting to the granting of, or to the refusal to suspend or revoke a permit applied for or held under the provisions of this section, may appeal to the Board by filing with the Secretary a written notice of such appeal setting forth the specific grounds thereof. Such notice must be filed within fourteen (14) days after notice of such denial, suspension, revocation or granting, or refusal to suspend, revoke or grant, such permit, constituting the basis of such appeal, but in no event later than thirty (30) days after the date of the denial, suspension, revocation or granting of the permit. The Secretary shall forthwith set said matter for hearing before the Board and cause notice thereof to be given (1) to the appellant, and (2) to the adverse party or parties, or to the attorney, spokesman or representative thereof, not less than five (5) days prior to such hearing. At such hearing the appellant shall show cause, on the grounds specified in the notice of appeal, why the action excepted to should not be approved. The board may continue such hearing from time to time, and its findings and conclusions on the appeal shall be final and conclusive in the matter.

Such permit issued by the Board or the Executive Director shall be in addition to any permit which may be required by law from the Building Inspector of the City. (Amended by: Stats. November 1988.)

Section 609. Leases. The Board shall have the power to make and enter into any lease of any properties belonging to or possessed by the City under its jurisdiction for a term of not to exceed sixty-six (66) years, provided that all leases made shall be subject to referendum. (Amended by: Stats. November 1988.)

Section 610. Contracts. All contracts shall be made and entered into in accordance with the conditions and procedures established by the Board, but subject to bid limit established by the Council pursuant to the provisions of Sections 807 and 808 of this Charter. All powers and duties therein conferred or imposed upon the Council or the City Attorney are, in relation to all matters connected with the Port, hereby conferred and imposed respectively upon the board and its attorney. Plans and specifications at the time of publication of notice inviting such bidding must be on file in the office of the board, subject to public inspections. (Amended by: Stats. November 1988.)

Section 611. Supervision of Leases, etc. The Board shall take over and control, and shall have the power to grant, all leases, concessions, easements, privileges, spur tracks and other permits, wharfing out rights, and waterfront or other franchises relating to the harbor or port and located within the "Port Area" and receive the income therefrom, but this shall not include franchises for the construction and maintenance of railroads, power lines, gas mains and other utilities of a general nature which may extend through other portions of the City into the Port Area and which are within the jurisdiction of the Council pursuant to the provisions of Article X of the Charter, and subject to the supervision of the Mayor.

It shall be the duty of the Board to see that all provisions of such leases, concessions, easements, privileges, permits, rights or franchises within its jurisdiction are faithfully observed, and it may cause to be instituted such actions or proceedings in the name of the City as may be necessary to enforce the provisions thereof, or to revoke, cancel, or annul them when they have become forfeitable in whole or in part, or are illegal, or void or voidable. (Amended by: Stats. November 1988.)

Section 612. Restrictions of Powers of Council. No franchise shall be granted, no property shall be acquired or sold, no street shall be opened, altered, closed or abandoned, and no sewer, street, or other public improvement shall be located or constructed in the "Port Area", by the City of Oakland, or the Council thereof, without the approval of the Board. (Amended by: Stats. November 1988.)

Section 613. Public Streets. Whenever the Board shall determine that it is necessary to open, close, improve, alter or vacate a public street or part of a public street within the "Port Area", a certified copy of the resolution so determining such necessity shall be filed by the Board in the Office of the City Clerk, with the request that the Mayor and the Council initiate and carry to completion the proceedings necessary to effect said proposal. (Amended by: Stats. November 1988.)

Section 614. Personnel System. All permanent places of employment in and under the Board shall be included within the personnel system of the City established pursuant to and subject to the provisions of Article VIII of this Charter, except the Executive Director and his two principal assistants, the Secretary of the Board, the Port Attorney and Legal Assistants, chief wharfinger, field and traffic representatives, and all persons employed in the physical or mechanical handling, moving or checking of cargo and freight. The exemption of such personnel from the operation of civil rules shall not in any way affect such pre-existing civil service rights as such employee may hold. (Amended by: Stats. November 1988.)

Section 615. Annual Budget. The Board shall annually, on or before the fourth Monday of May, or not less than one week prior to the submission of the annual appropriation ordinance by the Mayor, should the Council advance the date therefor, but not later than the third Monday of July, carefully prepare a budget setting forth the estimated receipts of the Port, and revenue from other sources, for the ensuing year, and the sums of money necessarily required for the administration of the department, and for maintenance, operation, construction and development of the port and its facilities for the ensuing year, and stating the amount necessary to be raised by tax levy for said purposes. Said budget when so prepared, shall be certified by the President and Secretary of the Board, and a certified copy thereof shall, on or before said date, be filed with the Council, one with the Mayor, and one with the Auditor. (Amended by: Stats. November 1988.)

Section 616. Tax Levy Funds. In the event that said Port budget, as provided for in the foregoing section, shall request or provide for the allocation or appropriation to the Port by the Council of any funds raised or to be raised or to be raised by tax levy or in any manner to be obtained from general revenues of the City, or shall request the incurring or payment of any financial obligation by the City for the Port's use and benefit, or shall not

provide for Board servicing of existing or future general obligation bonds of the City issued for Port purposes, the Council shall have the authority to reject said budget and to require it to be revised to meet with Council approval, subject, however, to the Board's covenants with the holders of all of the then outstanding revenue bonds issued by the Board.

The treasurer shall keep all Port funds separate from other funds in his possession, and the Board shall have the exclusive management and disbursement of the same. (Amended by: Stats. November 1988.)

Allocation of Funds.

Section 617 (1). All Port facilities, airport facilities and terminal facilities of any kind or character are hereby consolidated and shall be operated as a single project by the board in the interest of transportation by land, by sea and by air, it being hereby found and determined that transportation facilities of all classes implement and augment each other to such an extent that the same must in the public interest be operated singly and under one central supervision and control. Wherever in this charter the terms "port", "project", or "terminal facilities" are used, the same shall include all facilities under the jurisdiction of the Board, irrespective of whether the same shall be port or airport facilities or other real or personal property or equipment of the Port and related improvements, structures or facilities. (Amended by: Stats. November 1988.)

Section 617 (2). All moneys once apportioned or appropriated to the Board, including, without limiting the generality of the foregoing, all moneys heretofore apportioned or appropriated to and now under the control of the Board, shall be and remain under the control and order of and shall be expended by the Board for the purpose for which apportioned or appropriated and shall be kept separate and apart from all other moneys of the City or the Board. All surplus moneys which, in the judgement of the Board, are not needed for the purpose for which apportioned or appropriated, shall be allocated to and deposited in the Revenue Fund provided for in Section 717 (3). (Amended by: Stats. November 1988.)

Section 617 (3). All income and revenue from the operation of the port or from the facilities of the port, of whatever kind or nature, and all net income from leases or any other source of income or revenue, including, without limiting the generality of the foregoing, all such income and revenue now under the control of the Board, shall be and remain under the control and order of and shall be expended by the Board: provided that all such income and revenue shall be allocated to and deposited in a special fund in the City Treasury (which is hereby created) designated "Port Revenue Fund" and shall be kept separate and apart from all other moneys of the City or the board and shall be used and applied for the following purposes and in the following order of priority, to wit:

First: For the payment, as the same become due and payable, of the principal of and interest on any or all general obligation bonds of the City of Oakland heretofore and hereafter issued for port purposes, but only to the extent required by the constitution of the State of California or otherwise as determined by resolution of the Board.

Second: For the payment of the principal of and interest on revenue bonds, or other evidences of indebtedness payable solely from revenues as in Section 718 provided, which

are due or become due during the fiscal year in which the revenues in said funds, or either thereof, are received or are to be received, together with reserve fund payments, sinking fund payments or similar charges in connection with such revenue bonds due or to become due in such fiscal year, including all payments required to be made pursuant to the terms of any resolution authorizing the issuance of revenue bonds, or required by the terms of the contract created by or upon the issuance of revenue bonds.

Third: For the payment of all costs of maintenance and operation of the facilities from or on account of which such money was received. General cost of administration and overhead of the Board not directly chargeable to each facility under its control shall be apportioned fairly by the Board, upon such reasonable basis as it may determine, to each such facility.

Fourth: For defraying the expenses of any pension or retirement system applicable to the employees of the Board.

Fifth: For necessary additions, betterments, improvements, repairs or enlargements of any facilities, and, to the extent determined by a resolution or resolutions of the Board, for replacements, renewals or reconstruction of any facilities.

Sixth: For establishing and maintaining reserve or other funds to insure the payment on or before maturity of any or all general obligation bonds of the City now outstanding or hereafter issued for any facility under the control of the Board, but only to the extent required by the Constitution of the State of California or otherwise as determined by resolution of the Board.

Seventh: For establishing and maintaining reserve or other funds to insure the payment on or before maturity of any or all revenue bonds of the board hereafter issued.

Eighth: For establishing and maintaining such other reserve funds pertaining to the facilities of the Board as shall be determined by a resolution or resolutions of the Board.

Ninth: For transfer to the General Fund of the City, to the extent that the Board shall determine that surplus moneys exist in such fund which are not then needed for any of the purposes above stated. (Amended by: Stats. November 1988.)

Financing of Harbor and Airport Operations.

Section 618 (1). General Obligation Bonds of the City. The City of Oakland may from time to time incur general obligation bonded indebtedness in the manner provided by law for the acquisition, construction or completion of any port facilities or improvements of the Port of Oakland, including land, rights of way and air easements. The proceeds from the sale of any general obligation bonds now authorized, or which may hereafter be authorized, for any such purposes, shall be under the control of, and shall be expended by, the Board for the objects and purposes for which such general obligation bonded indebtedness was incurred. Whenever, in the opinion of the Board, it is desirable for the City of Oakland to incur additional general obligation bonded indebtedness for any project within the jurisdiction or control of the Board, the Board shall prepare tentative plans, estimates and bond retirement schedules and submit its recommendations in writing to the City Council, which shall thereupon take such action as it deems advisable to reject or carry out such recommendations. (Amended by: Stats. November 1988.)

Section 618 (2). Methods of Financing Not Exclusive. Nothing in this Section 718 contained shall in any way abridge, control, limit, restrict or revoke the power of the electors

of the City of Oakland to vote for and cause to be authorized and issued general obligation bonds of the City of Oakland for the acquisition, construction or completion of any project herein defined, or any additions thereto or betterments or improvements thereof, irrespective of whether or not revenue bonds for such purpose have been, or may thereafter be issued hereunder, and nothing herein contained shall prevent the financing of any project or any additions, betterments or improvements thereof from any other funds which may be legally available for that purpose. Revenue bonds authorized to be issued hereunder shall not be subject to charter limitations as to the amount of general obligation bonded indebtedness of the City of Oakland nor be taken into consideration in determining the amount of general obligation bonded indebtedness which the City of Oakland is authorized to incur, and the issuance of revenue bonds as in this Article VII provided shall be deemed to constitute a supplemental and additional method of providing funds for the financing of harbor, airport or other real or personal property or equipment of the Port and related improvements, structures or facilities. Such revenue bonds shall be issued in the name of the board of Port Commissioners of the City of Oakland and shall constitute obligations only of the Board, payable in accordance with their terms from revenues of any project, as in this Article VII authorized. (Amended by: Stats. November 1988.)

Section 618 (3). Rates, Tolls and Charges. Without limiting any power in this Charter conferred upon the Board, the Board has power for any of the purposes of the use of the facilities provided by any project, or for any services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the Board with respect to the fixing of such rates, tolls, fees, rentals or other charges; and, by a resolution of issues or otherwise, to enter into covenants to increase rates, tolls, fees, rentals or other charges from time to time; provided, however, that any person shall be permitted to use or operate any facilities provided by any project only upon payment of the regularly established charge therefor, except as may be otherwise specifically provided in a resolution of issue. All rates, fees, rentals and other charges shall be paid only in such coin or currency as on the date of payment is legal tender for public and private debts. (Amended by: Stats. November 1988.)

Section 618 (4). Authorization of Revenue Bonds. Each issue of revenue bonds shall be authorized by the board by a resolution of issue adopted by the affirmative votes of at least five (5) members of the board at a duly assembled meeting. Each resolution of issue shall prescribe the purpose or purposes for which, and the terms and conditions on which, said revenue bonds are to be issued. (Amended by: Stats. November 1988.)

Section 618 (5). Validity of Revenue Bonds Not Affected by Actions of City or Board Relative to Project.

- (a) The validity of the authorization and issuance of any revenue bonds by the Board shall not be dependent on or affected in any way by:
 - (i) Proceedings taken by the City or the Board for the acquisition, construction or completion of any project or any part thereof;
 - (ii) Any contracts made in connection with the acquisition, construction, or completion of any project; or

- (iii) The failure to complete any project for which bonds are authorized to be issued. (Amended by: Stats. November 1988.)

Section 618 (6). **Rights of Bondholders.** Except as provided otherwise in any resolution of issue, the holder of any bond issued pursuant to this Section 718 may, by mandamus or other appropriate proceedings, require and compel the performance of any of the duties imposed upon the Board or the City or the Council or any official or employee of the Board or the City or assumed by any thereof in connection with the acquisition, construction, completion, operation, maintenance, repair, reconstruction, completion, operation, maintenance, repair, reconstruction or insurance of any project, or the collection, deposit, investment, application and disbursement of rates, fees and charges derived from the operation and use of any project and all other revenues, or in connection with the deposit, investment or disbursement of the proceeds received from the sale of the bonds under this Section. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds issued pursuant to this Section 718. (Amended by: Stats. November 1988.)

Section 618 (7). **Section Confers Complete Authority.** The provisions of this Section constitute full and complete authority for the issuance of revenue bonds as herein provided by the Board and no other procedure, or proceedings, consents, approvals, orders or permission from the Council or any municipal officer or board of the City of Oakland, shall be required for the acquisition, construction or completion of any project, or the issuance of any revenue bonds under this Section 718 except as specifically provided in this Section 718. The powers and authorities conferred by this Section are in addition to and supplemental to all other powers and authorities conferred upon the Board. (Amended by: Stats. November 1988.)

Section 619. **Moneys on Hand.** All moneys in the Harbor maintenance and Improvement Fund at the time of the adoption of this Charter and all other revenues and funds in the possession of the City set aside for port purposes, shall immediately be under the jurisdiction and control of the Board. (Amended by: Stats. November 1988.)

Section 620. **Duties of Treasurer.** All moneys under the control of the Board shall be immediately paid over to the Treasurer of the City of Oakland, who shall have the care and custody of said funds, and shall keep separate accounts thereof, and pay out the same, as provided in this Charter. (Amended by: Stats. November 1988.)

Section 621. **Revolving Fund.** The Board shall have authority to set up by ordinance a sufficient contingent or revolving fund from which the Executive Director shall be entitled to draw warrants directly upon the Treasurer for the prompt payment of transient laborers, and the Treasurer shall upon presentation of same, pay such warrants. Statements of such payments shall be filed with the Board at its regular meetings and shall be approved by the Board and endorsed by the President and Secretary thereof, and audited as in the case of ordinary claims. (Amended by: Stats. November 1988.)

Section 622. **Additional Powers.** The City Council, subject to the approval of the Board, may by ordinance confer upon and delegate to the Board, from time to time, such

additional powers and duties which may be vested in it, and which it may deem necessary or convenient to carry out the general purposes of such Board. (Amended by: Stats. November 1988.)

Section 623. **Liberal Construction.** If any section, clause, word, or provision of this Article shall be held unconstitutional, the other sections, clauses, words, or provisions of this Article shall not be affected thereby. All the provisions of this Article shall be liberally construed. (Amended by: Stats. November 1988.)

Section 624. The provisions of this Article shall supersede and control all other provisions of the Charter in conflict therewith. To all other extent, the powers, duties, and functions heretofore vested in the Council, or any of the officials, boards, or departments of the City, shall be unimpaired. (Amended by: Stats. November 1988.)

Section 625. **Port Area.** The "Port Area" under the Exclusive jurisdiction of the board of Port Commissioners shall be the same area that existed immediately prior to the adoption of this Section, as it has been defined by Charter and by ordinance, and as it may hereafter be altered by Council ordinance in accordance with and upon the recommendation of the Board, or by amendment of this Charter. (Amended by: Stats. November 1988.)

Section 626. Without denial or disparagement of other powers now held by or that may hereafter be given to the City of Oakland or its legislative bodies under or by the Constitution or the laws of the State of California, the City Council and Board of Port Commissioners are hereby authorized and empowered to grant and convey all or any portion of or interest in the tidelands and submerged lands located in the Middle Harbor area of the City, lying between the Estuary of San Antonio and Seventh Street, and westward of Bay Street extended southerly, to the United States of America for public and governmental (including military or naval) purposes, subject to such terms, conditions, and reservations, if any, as the Council and Board shall deem proper. No ordinance or other measure passed in respect to any such grant shall be subject to the referendum provisions of this Charter. All proceedings heretofore taken to accomplish such a grant are hereby ratified, confirmed and approved, and the completion thereof and making of such grant is hereby authorized. (Amended by: Stats. November 1988.)

Section 627. **Land Use and Development.** The Board shall develop and use property within the Port Area for any purpose in conformity with the General Plan of the City. Any variation therefrom shall have the concurrence of the appropriate City board or commission; provided, that the Board may appeal to the Council for final determination of adverse decisions of such board or commission, in accordance with uniform procedures established by the Council. (Amended by: Stats. November 1988.)

ARTICLE VII FISCAL ADMINISTRATION

Section 700. **Fiscal Year.** The fiscal year for the City shall commence on the first day of July of each year. (Amended by: Stats. November 1988.)

Section 701. Budget. Each department, office and agency of the City shall provide in the form and at the time directed by the Mayor all information required by him to develop a budget conforming to modern budget practices and procedures as well as specific information which may be prescribed by the Council. Not later than May 31 of each year, the Mayor shall prepare and present to the Council, in such form and manner as it may prescribe, budget recommendations for the next succeeding fiscal year. Following public budget hearing, the Council shall adopt by resolution a budget of proposed expenditures and appropriations necessary therefor for the ensuing year, failing which the appropriations for current operations of the last fiscal year shall be deemed effective until the new budget and appropriation measures are adopted. (Amended by: Stats. November 1988.)

Section 702. Levy of Property Tax. Not later than the date set by state law for this purpose, the Council shall by resolution fix the rate of property tax to be levied and levy the tax upon all taxable property in the City. Such rate shall be adequate to meet all obligations of the City for the fiscal year, taking into account estimated revenue from all other sources. Should the Council fail to fix the rate and levy taxes within the time prescribed, the rate for the next preceding fiscal year shall thereupon be automatically effective, and a tax at such rate shall be levied upon all taxable property in the City for the current fiscal year. (Amended by: Stats. November 1988.)

Section 703. Cash Pool Operations. Municipal obligations may be financed by cash pool operations and utilization of a check system (as contrasted with a warrant system). Except for those funds restricted by bond indentures, state or federal law, other sections of this Charter or specific conditions of the legislation creating them, temporary transfers between funds are permitted. (Amended by: Stats. November 1988.)

Section 704. Funds. The Council shall create, reduce or eliminate such Funds as are required for proper accounting and fiscal management, or required as a condition of receiving funds from any other government, or to fulfill any bonded or other contractual obligation of the City. (Amended by: Stats. November 1988.)

Section 705. Accounting System. The Mayor shall establish and maintain a system of financial procedures, accounts and controls for the City government and each of its departments, offices and agencies which shall conform to generally accepted principles of accounting which shall be adequate to account for all monies on hand and for all income and expenditures in such detail as will provide complete and informative data concerning the financial affairs of the City and in such manner as the Council may prescribe and as will be readily susceptible to audit and review. (Amended by: Stats. November 1988.)

Section 706. Receipts and Expenditures. All monies received by the City shall be deposited in the City Treasury, and no monies shall be disbursed from the treasury without the approval of the Mayor or of another officer duly authorized by him. No expenditure of City funds shall be made except for the purposes and in the manner specified by an appropriation of the Council; nor shall any disbursement be made unless obligations are properly supported by accounting evidence, sufficient money is available in the City Treasury and there is an adequate unencumbered appropriation balance in the proper account classification. The Mayor or other officer authorized by Mayor to make disbursements

shall be represented by the City Attorney in all legal matters in connection therewith, except as provided otherwise in Section 401. (Amended by: Stats. November 1988.)

Section 707. Goods and Services. The Mayor or an officer authorized by the Mayor shall purchase or contract for equipment, materials, supplies and public works required by the City in the manner prescribed by ordinance, except as otherwise provided herein. (Amended by: Stats. November 1988.)

Section 708. Bids and Awards. The Council shall establish by ordinance the conditions and procedures for any purchase or contract, including advertising and bidding requirements, and may provide that all bids may be rejected. The ordinance may provide that under specified conditions, which the Council must find and determine exist in each applicable instance, advertising and bidding may be dispensed with. (Amended by: Stats. November 1988.)

Section 709. Annual Audit. The Mayor upon approval of the Council shall engage during the first month of each fiscal year an independent certified public accountant who shall examine and report to the Council on the annual financial statement of the City. He shall have free access to the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds, and of such other officers, employees, or departments as the Council may direct. He shall submit his audit as soon as practicable after the closing of the books for the fiscal year for which he is engaged. Copies of such audit reports shall be filed with the Council, and shall be available for public inspection and review. (Amended by: Stats. November 1988.)

Section 710. Deposit and Investment. The Mayor shall arrange for the deposit in the City Treasury or designated banks of all funds collected by any department or agency of the City, according to a schedule prescribed by him. After taking into account the amounts required to meet the current and pending requirements of the City, the Mayor may arrange for the Term deposit or investment in securities authorized by law of any balances available for such purpose and the yield therefrom shall be credited as revenue to the general fund unless otherwise provided by law or directed by the Council. (Amended by: Stats. November 1988.)

Section 711. Official Bonds. The Council shall determine by ordinance which officers and employees shall be subject to group or individual bonds to insure the faithful performance of official duties, shall fix the amount of such bonds and shall provide payment of the premium of such bonds by the City. (Amended by: Stats. November 1988.)

Section 712. Revenue Bonds. The Council may issue revenue bonds for any lawful purpose in such manner and upon such terms and conditions as it may fix and establish by the provisions of a procedural ordinance; provided, however, that in the procedure for the issuance of any such bonds for the acquisition, construction or establishment of any gas, electric or telephone system the general laws of the State of California in force at the time such proceedings are taken shall be observed and followed. (Amended by: Stats. November 1988.)

ARTICLE VIII PERSONNEL ADMINISTRATION

Section 800. **Personnel Policy.** It is the policy of the City that there shall be a comprehensive personnel system based on merit and such system shall be continued and maintained for the purpose of providing an equitable and uniform procedure for dealing with personnel matters; to serve the mutual interests of the people, the City as an employer and its employees through accepted modern concepts and practices of public personnel administration; to attract to municipal service the best and most competent person available; to assure that appointments will be based on merit and fitness as ascertained by practical competitive examination and by records of achievement; and to provide the employees security of tenure, with advancement or promotion within the service where practicable from among employees having appropriate qualifications, free of discrimination, subject to their adherence to established standards of performance and conduct, all as more particularly hereinafter set forth in this article. (Amended by: Stats. November 1988.)

Section 801. **Enforcement and Administration.** The provisions of this article, and of ordinances and rules adopted to give effect thereto, shall be enforced by a Civil Service Board. The Board shall be constituted and appointed as provided in Article VI. The Board shall be responsible for the general supervision of the personnel system, without impairment of the responsibility and duty of the Mayor, the Chief Administrative Officer, department heads and other supervisory personnel to exercise the administrative discretion vested in them by this Charter, or by ordinance. (Amended by: Stats. November 1988.)

Section 802. **The Competitive Service.** The Council may establish departments, divisions, offices and positions of employment by ordinance, and may change or abolish the same and prescribe their powers, functions and duties. The Council may by resolution provide for temporary employment of services when required. The competitive Civil Service shall include all offices and employments in the City government except:

- (a) Offices required by this Charter to be filled by election or to be appointed by the Mayor and City Council.
- (b) Two secretary and all professional and administrative assistants in the office of the Mayor and the Chief Administrative Officer; one secretary and one assistant to the City Attorney and the Auditor respectively; and the heads of such other departments and an assistant to each as may be provided for by ordinance. The Mayor, the Chief Administrative Officer, the City Attorney, and the Auditor shall respectively appoint such exempt personnel.
- (c) Department heads, one secretary to the executive director, the secretary of the board, commercial representatives and freight and cargo handlers and checkers employed by the Port Department; also such others engaged in the handling of ships and shipping as are found by both the board of Port commissioners and the action of the Civil Service board as provided for pursuant to Article VI to hold positions peculiar to the operations of the Port as a commercial enterprise.
- (d) Part-time employees who are regularly employed for less than one-half the established working hours throughout the year; or those who are employed in any seasonal employment for not more than 120 days in any consecutive 12 months.

- (e) Individuals or organizations engaged by contract after a finding by the Council or the Board of Port Commissioners, as the jurisdiction may be, that the service is of a professional, scientific or technical nature and is temporary in nature, or after finding by vote of two-thirds of the members of the Council or said Board that the performance of the service by contract, regardless of nature or term, is in the public interest because of economy or better performance; provided, that no such contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service.
- (f) Such additional positions as may be excepted upon the recommendation of the Council, approved by the Civil Service Board as provided for pursuant to Article VI. (Amended by: Stats. November 1988.)

Section 803. **Provisional Appointments.** When there is no appropriate eligible list, provisional appointments to positions in the competitive civil service may be made pending the creation of such lists, but such provisional employment may not extend beyond the creation of the list nor in any event may such employment be renewed or extended beyond 120 days. (Amended by: Stats. November 1988.)

Section 804. **Personnel Ordinance.** The Council shall by ordinance provide a modern system of personnel administration for the competitive civil service. (Amended by: Stats. November 1988.)

Section 805. **Continuation.** Pending adoption of the ordinance required in Section 904, the provisions of Article IX, as the same appeared in the Charter immediately prior to the adoption of this section, shall continue in full force and effect except as the same may hereafter be changed by amendment thereof in the manner provided by law for the amendment of charter provisions. Said provisions of Article IX shall cease to have any force or effect immediately upon the adoption of the ordinance required in Section 904. The rules of the Civil Service Board shall remain effective until modified as authorized by ordinance pursuant to Article VI. (Amended by: Stats. November 1988.)

Section 806. **Improper Political Activity.** No city employee shall engage in or participate in any political activity contrary to any general law applicable to such employee. No city officer or official shall solicit or obtain from any city employee a contribution of services, money or any other thing of value, for any election or campaign purpose. (Amended by: Stats. November 1988.)

Section 807. **Nepotism.** The Mayor or City Council shall not appoint as an employee or officer, to receive any compensation from the City, any person who is a relative by blood or marriage within the third degree of the Mayor or any one or more of the members of the Council, nor shall the Chief Administrative Officer or any other appointing authority appoint to any such position any relative of his or hers or of the Mayor or any member of the Council within such degree of kinship. (Amended by: Stats. November 1988.)

Section 808. **Social Security.** Provisions for an employee retirement system shall not be construed to prevent the City and its employees from participating in any state or

national social security system to the extent permitted by law for public employees. (Amended by: Stats. November 1988.)

Section 809. Authority to Join Pension System. Notwithstanding the provisions of Section 1209 the City, by and through its Council, may join or arrange for reciprocity of membership in, or continue as a contracting agency in, any retirement or pension system or systems existing or hereafter created under state or federal law to or in which municipalities and municipal officers or employees are eligible, either for all such officers and employees, or for less than all on the basis of a reasonable classification, provided that no employee or officer or classification thereof shall be unreasonably omitted from all systems referred to in this section or in Section 908 of this Charter. (Amended by: Stats. November 1988.)

Section 810. Arbitration for Uniformed Members of the Police and Fire Departments.

- (a) It is hereby declared to be the policy of the voters of the City to endeavor to establish and maintain, without labor strife and dissension, wages, hours, and other terms and conditions of employment for the uniformed members of the Police and Fire Departments which are fair and comparable to similar private and public employment. To such purpose, the voters of the City hereby recognize the efficiency of and adopt the principle of binding arbitration as an equitable alternative means to arrive at a fair resolution of terms of wages, hours, and other terms and conditions of employment for such employees when the parties have been unable to resolve these questions through negotiations.
- (b) Pursuant to the public policy hereinabove declared, the City or the recognized employee organization for the uniformed members of the Police and Fire Departments may, as the results of an impasse after meeting and conferring in good faith on matters within the scope of representation as required by applicable State law, refer any such matters which are unresolved to binding arbitration under the provisions of this Section; except that the Charter provisions concerning the Police and Fire Retirement System and such other provisions of this Charter which specifically govern wages, hours and other terms and conditions of employment of uniformed members of the Police and Fire Departments shall not be subject to change by arbitration. In any such arbitration, the arbitrator is directed to take into consideration the City's purpose and policy to create and maintain wages, hours and other terms and conditions of employment and which are responsive to changing conditions and changing costs and standards of living. The arbitrator shall also consider: the interest and welfare of the public; the availability and sources of funds to defray the cost of any changes in wages; hours and conditions of employment; and all existing benefits and provisions relating to wages, hours and terms and conditions of employment of the uniformed members of the Police and Fire Departments, whether contained in this Charter or elsewhere.
- (c) Any unresolved dispute or controversy arising under the provisions of this Section, or any unresolved dispute or controversy pertaining to the interpretation or application of any negotiated agreement covering uniformed members of the Police and Fire Departments shall be submitted to an impartial arbitrator. Representatives designated by the City and Representatives of the recognized employee organization affected by the dispute or controversy shall select the

arbitrator. In the event that said parties cannot agree upon the selection of the arbitrator within five days from the date of any impasse, then the California State Conciliation Service shall be requested to nominate five (5) persons, all of whom shall be qualified and experienced as labor arbitrators. If the representatives of the recognized employee organization and the City cannot agree on one of the five to act as arbitrator, they shall strike names from the list of said nominees alternately until the name of one nominee remains who shall thereupon become the arbitrator. The first party to strike a name from the list shall be chosen by lot. Every effort shall be made to secure an award from the impartial arbitrator within thirty (30) calendar days after submission of all issues to him.

- (d) The arbitration proceedings herein provided shall be governed by Sections 1280, et seq., of the California Code of Civil Procedure. The arbitrator's award shall be submitted in writing and shall be final and binding on all parties. The City and the affected employee organization shall take whatever action is necessary to carry out and effectuate the award. The expenses of arbitration, including the fee for the arbitrator's services, shall be borne equally by parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.
- (e) Nothing herein shall be construed to prevent the parties from submitting controversies or disputes to mediation, fact-finding or other reasonable method to finally resolve the dispute should the City and the recognized employee organization in the controversy or dispute so agree. An impasse may be declared by either the City or the recognized employee organization in the event the parties fail to reach agreement on matters within the scope of representation after meeting and conferring in good faith as required by applicable State law, or after other mutually agreed-upon settlement methods fail to result in agreement between the parties. (Added by: Stats. 1973. Amended by: Stats. November 1988.)

ARTICLE IX FRANCHISES, LICENSES, PERMITS, LEASES AND SALES

Section 900. Franchises, Licenses, Permits. The Council shall have authority to grant or issue franchises, licenses and permits for the transaction of business or the providing of services, or for the use of public streets or other public places, and to provide by ordinance the procedure for the granting or issuing thereof, the taxes, charges, fees or other compensation to be paid therefor and the penalties for the violation thereof. (Amended by: Stats. November 1988.)

Section 901. Leases, Sales. The Council shall have authority to lease or sell real and personal property owned or controlled by the City in accordance with such uniform procedure as it shall adopt by ordinance, provided, however, that no lease of real property shall be for a term in excess of sixty-six years. (Amended by: Stats. November 1988.)

Section 902. Right to Acquire. No franchise grant shall be construed to impair or affect the right of the City, acting pursuant to law, to acquire the property of the grantee

either by purchase or through the exercise of the right of eminent domain. (Amended by: Stats. November 1988.)

ARTICLE X ELECTIONS

Section 1000. Nominating Election. Beginning in 1990, Municipal Nominating Elections for the nomination of officers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in June in each even-numbered year. (Amended by: Stats. June 1988 and November 1988.)

Section 1001. General Municipal Elections. General Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the fourth Tuesday after each Municipal Nominating Election. (Amended by: Stats. June 1988 and November 1988.)

Section 1002. Special Municipal Elections. All other municipal elections that may be held by the authority of this Charter or of any law shall be known as Special Municipal Elections. (Amended by: Stats. November 1988.)

Section 1003. Election Procedure. The mode, manner, form and procedure for nominations, qualifications, petitions, filing -- including fees therefor and amounts thereof -- and elections, for elective office, may be provided by ordinance. Except as may be otherwise provided by ordinance, declarations of candidacy, nominations for election, all elections and all procedures relating thereto shall be in accordance with the applicable provisions of state law. (Amended by: Stats. November 1988.)

Section 1004. Initiative, Referendum and Recall. The people of the City reserve to themselves the powers of initiative and referendum and the recall of elected officials, to be exercised in the manner prescribed by general law of the State. (Amended by: Stats. November 1988.)

ARTICLE XI GENERAL PROVISIONS

Section 1100. Conflict of Interest. No officer of the City may participate on behalf of the City in any transaction or activity in which he has a conflict of interest, as such conflict is defined by State Law. The penalty for violation of this section shall be as provided by State Law. (Amended by: Stats. November 1988.)

Section 1101. Incompatible Employment. Each officer and employee shall, during his hours of active duty, devote his whole time, attention and efforts to his office or employment, and he may not be required to perform any service except for the benefit of the City. No officer or employee of the City may engage in any employment, activity or enterprise which has been determined to be inconsistent, incompatible or in conflict with

his duties or with the duties, functions and responsibilities of the department or other agency in which he is employed. The Chief Administrative Officer, , or the City Attorney, or the Auditor, as to personnel under their respective jurisdictions, shall declare the activities which will be considered inconsistent, incompatible or in conflict with or inimical to, the duties of such personnel as City employees. In making this determination, consideration shall be given to employment, activity or enterprise which: (a) involves the use for private gain or advantage of City time, facilities, equipment and supplies, or the badge, uniform prestige or influence of one's City office of employment; (b) involves receipt by the officer or employee of any money or other consideration for the performance of any act required of him as a City officer or employee; or (c) involves the performance of an act in other than his capacity as City officer or employee which act may later be subject directly or indirectly, to control, inspection, review, audit or enforcement by him or by the agency in which he is employed. (Amended by: Stats. November 1988.)

Section 1102. Conflict in Office. The Mayor and members of the Council shall not hold any other municipal office or any other office or employment to receive compensation from the City; or be appointed or elected to any office created by the Council while he is a member thereof, until at least one year shall have expired after the expiration of the term for which he was elected. (Amended by: Stats. November 1988.)

Section 1103. Gifts and Trusts. The Council shall have the power to accept gifts and trusts in behalf of the City and to control, manage, dispose of and otherwise administer the same in accordance with their terms. (Amended by: Stats. November 1988.)

Section 1104. Title to Property. All real property acquired by the City shall be held in the name of "The City of Oakland." (Amended by: Stats. November 1988.)

Section 1105. Public Notice. Except as otherwise provided in this Charter or by general law, the Council shall, by ordinance applying to all agencies of the City, designate the time and conditions under which adequate public notice should be given, through publication or otherwise, of the pending consideration of ordinances, invitations to bid, and awards of contracts or leases, notices of intention to grant franchise, election proceedings and other matters requiring public notice in accordance with this Charter, any ordinance enacted pursuant thereto or general state law. Publication, if required, shall be in an official newspaper designated annually by the Council, which shall be a newspaper printed and published in the City of Oakland and which shall have a daily circulation within the City of at least 25,000. (Amended by: Stats. November 1988.)

Section 1106. Oath of Office. Every officer of the City, before entering upon his duties, shall take the following oath and file the same with City Clerk: "I solemnly swear or affirm that I will support the constitution of the United States, the constitution of the State of California, and the Charter of the City of Oakland, and will truly and to the best of my abilities perform the duties of the office of _____." (Amended by: Stats. November 1988.)

Section 1107. Oaths and Subpoenas. Every officer and every member of any Board provided for in this Charter shall, in all matters relevant to his office, have the power to

administer oaths and affirmations and to issue subpoenas to compel the production of books, papers and documents and to take testimony on any matter pending before him. If any person subpoenaed fails or refuses to appear or to produce required documents or to testify, said officer or the majority of the members of the board or commission may find him in contempt, and shall have power to take the proceedings in that behalf provided by the general law of the State. (Amended by: Stats. November 1988.)

Section 1108. Violation. The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction in the manner provided by State Law. (Amended by: Stats. November 1988.)

Section 1109. Previous Charter Provisions Continued. Section 91(e) added by Stats. Feb. 1959, Sections 97(f), 33(1) through 33(10), 92-1/2 through 96-3/4, 100-1/2 through 104(c), 199(d), all the sections of Article XXVI and all the sections of Article XXVII, as the same appeared in the Charter immediately prior to the adoption of this section, are by this reference hereby continued in full force and effect, and ratified, by the adoption of this section as if the same were herein printed and set forth in full. Said sections shall be printed in the appendix to this revised Charter and shall be renumbered therein as sections of said appendix. All sections and articles of the said Charter, as the same existed immediately prior to the adoption of this section, other than the hereinabove specified sections and articles thereof which are ratified and continued in full force and effect by the adoption of this section, are hereby repealed by the adoption of this section. (Amended by: Stats. November 1988.)

Section 1110. Construction and Separability. If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the remainder of this Charter and the application of such provisions to other persons or circumstances shall not be affected thereby. (Amended by: Stats. November 1988.)

Section 1111. Effective Date. This Charter shall take effect upon the filing with the Secretary of State of the concurrent resolution of its approval by the State legislature. (Amended by: Stats. November 1988.)

Section 1112. Gender References. All gender references in this Charter shall be considered neutral in form and context. (Amended by: Stats. November 1988.)

APPENDIX TO THE CHARTER

[There are no changes of substance proposed to the Appendix, Articles IV through XXVII, which address pension matters and funding of off-street parking facilities. The only changes involved would be new Article numbers and substituting the Mayor for the City Manager in a few sections authorizing the Manager to appoint employees and to include certain matters in the City Budget]

FALSE



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THE CHARTER
OF THE
CITY OF OAKLAND

In Effect January 28, 1969

We, the people of the City of Oakland, the State of California, do ordain and establish this Charter as the fundamental law of the City, under the Constitution of the State of California.

ARTICLE 1
POWERS AND FORM OF GOVERNMENT

Section 100. **Name.** The municipal corporation now existing and known as the City of Oakland shall remain and continue a body politic and corporate in name and fact by the name of the City of Oakland, and by such name shall have perpetual succession.

Section 101. **Boundaries.** The boundaries of the City of Oakland, as they exist on the effective date of this Charter, shall continue until changed in the manner authorized by law.

Section 102. **Rights in Succession.** The City of Oakland, hereinafter termed the City, shall have, exercise, and enjoy all the rights, immunities, powers, benefits, privileges and franchises now possessed, enjoyed, owned or held by it.

Section 103. **Continuance of Laws.** All lawful ordinances, resolutions, rules and regulations or portions thereof now in force and not in conflict or inconsistent herewith are continued in force until they have been duly repealed or amended.

Section 104. **Continuance of Officers and Employees.** All officers and employees of the City now serving shall continue in their offices or employments until removed or replaced in the manner prescribed by the authority of this Charter.

Section 105. **Transfer of Records and Property.** The transfer of any function from one department to another by this Charter or by any lawful ordinance or administrative authority also authorizes the corresponding transfer of all records, property, and equipment necessary to such function.

Section 106. **General Powers.** The City shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in these Charter; provided, that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to exercise, and all the rights, powers and privileges heretofore or hereafter granted or prescribed by the general laws of the State including those specifically applicable to general law cities; provided, also, that where the general laws of the State provide a procedure for the carrying out and the enforcement of any rights of powers

belonging to the City, said procedure shall control and be followed unless a different procedure shall have been provided in the Charter or by ordinance.

It is the intention of the people in adopting this section to take advantage of the provisions of Section 6 of Article XI of the Constitution of the State of California giving cities Home Rule as to municipal affairs.

Section 107. **Form of Government.** The government provided by this Charter shall be known as the ~~Council-Manager~~ Council-Mayor form of government.

ARTICLE II THE COUNCIL

Section 200. **Composition of the Council.** The Council shall consist of ~~eight~~ nine ~~Councilmen~~ Councilmembers, nominated and elected as hereinafter provided, ~~and the Mayor.~~

Section 201. **Qualifications.** No person shall be eligible for or continue to hold the office of ~~Councilman~~ Councilmember ~~or Mayor~~, either by election or appointment, unless he ~~or she~~ is a citizen of the United States, a qualified elector, a resident for at least thirty days of the City or of a territory lawfully annexed or consolidated, and a resident of the district from which he ~~or she~~ may be a candidate for at least thirty days immediately next preceding his ~~or her~~ nomination or appointment. (Amended by: Stats. November 1988.)

Section 202. **Compensation.** The members of the Council, ~~other than the Mayor,~~ shall each receive the compensation heretofore provided by Charter, until changed by Charter amendment or by ordinance; provided that any such compensation fixed by ordinance shall not exceed the amount which the city council of a general law city having no greater population than the City can prescribe under the provisions of state law as compensation for its councilmen.

Section 203. **Nomination and Election of Councilmembers.** Seven Councilmembers shall be nominated from districts and ~~one~~ two shall be nominated at large. The Councilmembers-at-large shall be nominated and elected by the qualified electors of the City at large. The District Councilmembers shall be nominated and elected by the qualified electors of their respective districts. The districts shall be as they exist upon the taking effect of the section, until revised by ordinance. In the year 1984, and every six years thereafter, and whenever and substantial territory is annexed to or consolidated with the City, the Council shall form new districts not exceeding seven. Districts shall be composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable. No change in the boundary of a district shall operate to exclude an incumbent from office before the expiration of the term for which he was elected or appointed. (Amended by: Stats. October 1980 and June 1990.)

Section 204. **Term of Office, Council.** The Councilmembers shall be elected to a term of four years beginning at 11:00 a.m. on the Monday following January 1 following their election. The Councilmembers elected or appointed to office to serve terms beginning

in 1985 shall serve in office until 11:00 a.m. on the Monday following January 1 in 1991. The Councilmembers elected or appointed to office to serve terms beginning in 1987 shall serve in office until 11:00 a.m. on the Monday following January 1, 1993. In 1990 Municipal Elections will be held to select City officers for four year terms for the following offices: Councilmember, District #2; Councilmember, District #4, and, Councilmember, District #6. In 1992 Municipal Elections will be held to select City Councilmembers for four year terms for the following offices: Councilmember, District #1; Councilmember, District #3; Councilmember, District #5; Councilmember, District #7; and Councilmembers-At-Large. (Amended by: Stats. November 1988.)

term limits removed

Section 205. Vacancies: Filling of. Any vacancy occurring in the office of Councilmember shall be filled by appointment by the majority vote of the remaining members of the Council; provided, that if two or less members remain, the appointment of members of the Council shall be made by the majority vote of a body consisting of the remaining members and the members of the Alameda County Board of Supervisors representing districts including a part of the City. In the event such body is unable to or fails within a period of five days to take such action, appointment shall be made by the Governor of California. An appointee to the office of Councilmember for the balance of an unexpired term shall hold office until the next general municipal election. (Amended by: Stats. November 1988.)

Section 206. Vacancy: What Constitutes. An office of ~~councilman~~ Councilmember or ~~Mayor~~ shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after his term is to begin, dies, resigns, ceases to be a resident of the City or of the district from which he or she was nominated, absents himself or herself continuously from the City for a period of more than thirty days without permission from the Council, absents himself or herself from any ten consecutive regular meetings except on account of his or her own illness or when absent from the City by permission of the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his office, forfeits his office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the ~~Councilman~~ Councilmember or ~~Mayor~~. (Amended by: Stats. November 1988.)

Section 207. Powers of the Council. The Council shall be the governing body of the City. It shall exercise the corporate powers of the City and, subject to the expressed limitations of this Charter, it shall be vested with all powers of legislation in municipal affairs adequate to provide a complete system of local government consistent with the Constitution of the State of California. It shall have no administrative powers. The council shall fix the compensation of all City employees, officers and officials except as otherwise provided by this Charter. (Amended by: Stats. November 1988.) The Council may provide for the appointment of staff who shall serve the Councilmembers individually or collectively. The Council may establish an office of the Legislative Analyst. The Legislative Analyst shall be responsible for providing analysis of fiscal matters, developing policy statements which may be the basis of legislation, summarizing and reviewing administrative reports and

recommendations, and providing such other technical assistance as the Council may require to perform its duties. The Legislative Analyst shall be appointed by the Council and serve at the pleasure of the Council. The Legislative Analyst may appoint such other staff members as authorized by the Council.

Section 208. Meetings of the Council. At 11:00 a.m. on the first Monday following January 1 following each General Municipal Election, the Council shall meet at the established Council meeting place, at which time and place the newly elected members of the Council shall assume the duties of their office; and at such meeting, and at the first meeting in January in even-numbered years, the Council shall elect a ~~Vice Mayor~~ President from among its members to serve for a one-year term. Thereafter the Council shall meet regularly at the time and place fixed by resolution. Special meetings may be held at the regular place of meeting and shall be called, and notice thereof given, by the City Clerk upon the written request of the Council President, the Mayor, the ~~City Manager~~ or three members of the Council and such notice shall state the special subject to be considered at the special meeting; and no other subject shall be there considered. Regular or special meetings may be held at places other than the regular meeting place only in an emergency in which the regular meeting place is untenable, or for some purpose of public convenience, upon the posting of a public notice at the regular meeting place that the Council is meeting elsewhere, to be designated on the notice. (Amended by: Stats. June 1988.)

Section 209. Duties of President of the Council. The President of the Council shall be the presiding officer of the Council. In addition, upon the vacancy in the Office of Mayor and in the event of temporary absence or incapacity of the Mayor, the Office of Mayor shall be filled by the President of the Council. In the event of a vacancy in the Office of President of the Council due to death, disability, disqualification or absence or in the event the President of the Council is required to fill the Office of Mayor, the Council shall choose an Acting President from among its members who shall serve until the previously elected President is able to return to office or that person's term expires.

Section 209 210. Quorum. Five members of the Council shall constitute a quorum for the transaction of business, but a lesser number may adjourn.

Section 210 211. Council Action. The Council shall provide by resolution for the order of business and the rules of procedure for the conduct of Council meetings. The Council shall act by ordinance or resolution or motion. The "ayes" and "noes" shall be taken on the passage of all ordinances and resolutions and entered upon the journal of the Council's proceedings. Each proposed ordinance or resolution shall be introduced in written or printed form. The affirmative vote of five members of the Council shall be required to adopt any ordinance or resolution, except as otherwise provided by this Charter or by general law.

Section 211 212. Enactment of Ordinances. In addition to such other action of the Council as is required by statute or by this Charter to be by ordinance, every act of the Council establishing a penalty or granting a franchise shall be by ordinance. The enacting clause of all ordinances shall be: "The Council of the City of Oakland does ordain as follows."

Section ~~212~~ 213. **Adoption and Amendment of Ordinances.** Except for emergency ordinances, no ordinance shall be adopted by the Council on the day of its introduction, nor within five days thereafter, nor except at a regular or adjourned regular or special meeting. If an ordinance is altered after its introduction (except for the correction of typographical or clerical errors), it shall not be adopted except at a regular or adjourned regular or special meeting held not less than five days after the date of such alteration. Any section or subsection of an ordinance may be amended solely by the reenactment of such section or subsection at length as amended.

Section ~~213~~ 214. **Emergency Ordinances.** Any ordinance declared by the Council to be necessary for preserving the public peace, health, or safety in an emergency, and containing a statement of the reasons constituting such necessity, may be introduced and adopted at the same meeting if passed by the affirmative vote of at least six members. Appropriations to meet an urgent need for public expenditure to protect the public health, safety, or welfare may be made as an emergency ordinance.

Section ~~214~~ 215. **Publication.** Before final adoption of an ordinance, its title, a digest thereof, a notice showing the vote on its introduction and the date, time, and place of hearing on its final adoption, and notice that three full copies thereof are available for use and examination by the public in the office of the City Clerk, shall be published once in the official newspaper of the city at least three days before said hearing date. Notice of the adoption of an emergency ordinance, the vote thereon, its title, and a digest thereof shall be similarly published once within three days after its adoption. The notices and digests shall be prepared by the City Attorney.

Section 216. **Action by the Mayor.** Each proposed resolution or ordinance voted on by the Council that is not approved by the Council and each ordinance or resolution adopted by the Council shall, within forty-eight hours of such action, be transmitted to the Mayor by the City Clerk, with appropriate notation of the action of the Council thereon. Any ordinance or resolution adopted by the Council as an emergency measure shall be acted upon by the Mayor within four calendar days after receipt thereof by the Mayor from the City Clerk. All other ordinances or resolutions shall be acted upon by the Mayor within ten days of such receipt.

The Mayor shall either approve each resolution or ordinance adopted by the Council by signing and returning same to the City Clerk within the required time limit, or shall disapprove and veto any resolution or ordinance and shall return each such resolution or ordinance to the City Clerk with his or her written objections within the required time limit. Failure to make such return within the required time limit shall constitute approval and such ordinance, resolution, or item shall then take effect without the Mayor's signed approval. The City Clerk shall note such fact on the official copy of such resolution or ordinance.

Any proposed resolution or ordinance voted on by the Council that is not approved by the Council shall be reconsidered by the Council on the written request of the Mayor, stating his or her reasons therefore, filed with the City Clerk by the Mayor within ten days after the Council's action on such resolution or ordinance. The Council shall reconsider such measure at its convenience, but not later than thirty days after the filing of the Mayor's request therefor.

Notwithstanding the above, the action or failure to take action by the Council regarding appeals from decisions of the Planning Commission shall be final and the Mayor shall not have the right to veto or require the reconsideration of such decisions.

Section 217. **Enactment Over Veto.** The Council may reconsider any resolution or ordinance vetoed or disapproved by the Mayor and if, after such reconsideration, six members of the Council shall vote in favor of passage thereof, it shall become effective notwithstanding the Mayor's veto. If a larger vote is required for the adoption of a measure by the provisions of this Charter, such larger vote shall be required to overcome the veto of the Mayor. If such vetoed resolution or ordinance is not passed over the Mayor's veto within thirty days of such veto, the measure shall be lost.

Section 215 218. **Codification.** The duly adopted and effective ordinances of the City may be compiled and arranged as comprehensive codes, which may be adopted by reference by the passage of an ordinance for such purpose.

Section 216 219. **Effective Date of Ordinance.** ~~An ordinance receiving upon final adoption the affirmative vote of at least six members of the Council shall be effective immediately, unless a later date is specified therein. All other ordinances, unless a different date is required by this Charter, shall be effective upon the seventh day after final adoption; provided, that within three days after said date of final adoption, the Mayor may file in the office of the City Clerk written notice to the Council that he has suspended the taking effect of the ordinance, stating in said notice the reason or reasons for his action, which notice the City Clerk shall forthwith deliver to the members of the Council. Such notification shall automatically cause the reconsideration of the ordinance by the Council at its regular meeting next following the sixth day after the aforesaid final adoption of the ordinance. If, upon reconsideration, the ordinance is again approved by the affirmative vote of at least five members of the Council, it shall take effect immediately; and if not so approved, it shall be ineffective. An ordinance or resolution receiving upon final adoption the affirmative vote of at least six members of the Council shall be effective immediately after approval by the Mayor or upon expiration of the time for action by the Mayor as provided in Section 216, or approval by Council after veto by the Mayor, pursuant to Section 217, unless a later date is specified in the ordinance or resolution. All other ordinances and resolutions, unless a different date is required by this Charter, shall be effective on the seventh day after approval by the Mayor or the seventh day following the expiration of the time allowed for action by the Mayor if the Mayor does not act as provided in Section 216, or approval by Council action after veto by the Mayor, pursuant to Section 217.~~

Section 217 220. **Penalty for Violation of Ordinances.** The Council may make the violation of its ordinances a misdemeanor, which may be prosecuted in the name of the People of the State of California or may be redressed by civil action, and may prescribe punishment for such violations by a fine not to exceed \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

Section 218 221. **Non-Interference in Administrative Affairs.** Except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the ~~City Manager~~ Mayor and other appointed or elected officers are responsible,

solely through the ~~City Manager~~, Mayor or and such other officers as may be designated by the Mayor. ~~Except for the powers particularly reserved to the Mayor pursuant to Section 305 of this Charter,~~ Neither the Council nor any member shall give orders to any subordinate of the City under the jurisdiction of the ~~City Manager~~ Mayor or such other officers, either publicly or privately; nor shall they attempt to coerce or influence the ~~City Manager~~ Mayor, the Chief Administrative Officer, department heads of the City, or such other officers, in respect to administrative decisions concerning any contract, purchase of any supplies or any other administrative action; nor in any manner direct or request the appointment of any person to or his removal from office by the ~~City Manager~~ Mayor, or any of his subordinates or such other officers, nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the City except as provided in Section 309 or as may be expressly requested by the Mayor. Violation of the provisions of this section by a member of the Council shall be a misdemeanor constitute official misconduct, conviction of which shall immediately forfeit the office of the convicted member; provided, however, that nothing in this Section shall restrict the power of hearing and inquiry as provided in this Charter. (Amended by: Stats. November 1988.)

Section 222. Hearings and Inquiries. The Council may require periodic or special reports of departmental costs, operations and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the City, and for that purpose Councilmembers may ask questions of any City official, director, department head or employee and the Council may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. It shall be the duty of the Chief of Police to designate a police officer to serve subpoenas. Any person refusing to obey such subpoena or to produce such books, shall be deemed in contempt and subject to proceedings and penalties as provided by general law in such instances.

Section 223. Ordinance: When Required. In addition to other actions required by law or by specific provision of the Charter to be done by ordinance, those actions of the Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency as authorized in Article VI of this Charter.
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- (3) Levy taxes except as otherwise provided in this Charter with respect to the property tax levied by adoption of the budget.
- (4) Regulate the rates charged for its services by a public utility.
- (5) Authorize the borrowing of money except as otherwise provided in Section 812 of this Charter.
- (6) Convey or lease, or authorize the conveyance or lease for longer than one year, of any real property of the City, or any interest therein, or the acquisition of real property, the purchase price of which is more than Five Thousand Dollars (\$5,000.00).
- (7) Amend or repeal any ordinance previously adopted.

Provided, acts other than those referred to hereinabove under this section, or other than may be specifically otherwise provided for in other sections of this Charter, may be done either by ordinance or by resolution.

ARTICLE III THE MAYOR

Section 300. **The Mayor.** The Mayor shall be nominated and elected from the City at large and shall receive an annual salary payable in equal monthly installments, and without any additional compensation or fees provided for in Section 202 of this Charter. The salary shall be set by the Council, which shall be not less than 70% nor more than 90% of the average salaries of City Managers/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland; ~~but shall not exceed the salary of the City Manager of the City of Oakland as certified by the City Clerk.~~ The Mayor's salary shall be reviewed by the City Council in odd-numbered years and may be adjusted by the Council as provided for herein. (Amended by: Stats. November 1988.)

Section 301. **Qualifications.** No person shall be eligible for or continue to hold the Office of Mayor, either by election or appointment, unless ~~he~~ the person is a citizen of the United States, a qualified elector and resident for at least thirty days of the City or a territory lawfully annexed or consolidated. (Amended by: Stats. November 1988.)

Section 302. **Term of Office, the Mayor.** The Mayor shall be elected to a term of four years beginning at 11:00 a.m. on the first Monday of January following his or her election. ~~No person shall be elected as Mayor for more than two consecutive terms. The Mayor elected to Office to serve a term beginning in 1985 shall serve in Office until 11:00 a.m. on the Monday following January 1 in 1991. In 1990 municipal elections will be held to select City Officers for four year terms, including the Office of Mayor.~~ (Amended by: Stats. November 1988.)

Section 303. **Vacancy, Filling Of.** Upon the declaration of vacancy in the office of the Mayor, the office of the Mayor shall be filled by the ~~Vice Mayor~~ President of the Council. When the ~~Vice Mayor~~ President of the Council assumes the office of Mayor upon declaration of a vacancy, ~~he~~ the President shall serve until the vacancy is filled by the Council as provided herein. Any vacancy occurring in the office of Mayor shall be filled by appointment by the majority vote of the remaining members of the Council; provided, that if two or less members remain, the appointment of Mayor shall be made by the majority vote of a body consisting of the remaining members and the members of the Alameda County Board of Supervisors representing districts including a part of the City. In the event such body is unable to or fails within a period of five days to take such action, appointment shall be made by the Governor of California. An appointee to the office of Mayor for the balance of an unexpired term shall hold office until the next general municipal election. (Amended by: Stats. November 1988.)

Section 304. **Vacancy: What Constitutes.** The office of Mayor shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after ~~his~~ the person's term is to begin, dies, resigns, ceases to be a resident of the City or ~~is absents himself~~ continuously from the City for a period of more than thirty days without permission from the Council, ~~absents himself from any ten consecutive regular~~

~~meetings except on account of the Mayor's own illness or when absent from the City by permission of the Council,~~ is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his the office, forfeits his the office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the Mayor. (Amended by: Stats. November 1988.)

Section 305. Functions, Powers and Duties. The Mayor shall be the chief elective executive officer of the City, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall be responsible to the People of Oakland for the proper and efficient administration of all affairs of the City. The Mayor shall, subject to the provisions of Article VIII of this Charter and except as otherwise provided in this Charter, have the power to appoint, assign, reassign, discipline and remove all directors or heads of departments and all employees of the City, except those under the direct supervision of an Officer of the City named in this Charter. The Mayor may delegate to the Chief Administrative Officer or directors or department heads responsible to the Mayor the authority to appoint, assign, reassign, discipline and remove subordinate employees, subject to Article VIII of this Charter. The Mayor shall have the following powers, duties, and responsibilities:

- (a) ~~The Mayor shall be responsible for the submission of an annual budget to the Council which shall be prepared by the City Manager under the direction of the Mayor and Council. The Mayor shall, at the time of the submission of the budget, submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as he may deem expedient and proper to accomplish such goals.~~
- (b) ~~Recommend to the Council such measures and legislation as he deems necessary and to make such other recommendations to the Council concerning the affairs of the City as he finds desirable.~~
- (c) ~~Encourage programs for the physical, economic, social and cultural development of the City.~~
- (d) ~~Actively promote economic development to broaden and strengthen the commercial and employment base of the City.~~
- (e) ~~Preside over meetings of the Council.~~
- (f) ~~Serve as ceremonial head of the City.~~
- (g) ~~Represent the City in inter-governmental relations as directed by the Council.~~
- (h) ~~Provide community leadership.~~

In addition to these general responsibilities, the Mayor shall have the following specific duties:

- (a) To execute and enforce all laws and ordinances and policies of the Council and to administer the affairs of the City.
- (b) To provide community leadership and actively promote economic development to broaden and strengthen the commercial and employment base of the City.

- (c) To recommend to the Council such measures and ordinances as he or she may deem necessary or expedient and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable.
- (d) To investigate affairs of the City under the Mayor's supervision, or any franchise or contract for the proper performance of any obligation running to the City within his or her jurisdiction.
- (e) To control and administer the financial affairs of the City.
- (f) To prepare and submit an annual budget to the Council.
- (g) To prepare or cause to be prepared the plans, specifications, and contracts for work which the Council may order.
- (h) To supervise the purchasing of materials and supplies and to make recommendations to the Council in connection with the awarding of public contracts and to see that all City contracts under the Mayor's direction or that of the Council are faithfully performed.
- (i) To prepare and submit to the Council such reports as it may require.
- (j) To keep the Council at all times fully advised as to the financial condition and needs of the City.
- (k) To prescribe such general rules and regulations as the Mayor may deem necessary or expedient for the general conduct of the administrative departments under his or her jurisdiction.
- (l) To represent the City in its intergovernmental relations and to negotiate contracts for joint governmental actions, subject to Council approval.
- (m) To perform such other duties as may be prescribed by this Charter or by ordinance or resolution.

The Mayor shall devote his or her full time and attention to the duties of the Office of the Mayor and shall not engage in outside employment while in office. However, nothing shall prevent the Mayor from the receipt of income earned from business(es) or investment(s) in which he or she is not actively engaged and which are not in conflict with the performance of his the Mayor's duties and responsibilities. (Amended by: Stats. November 1988.)

~~Section 306. Duties of Vice Mayor. In the absence or temporary disability of the Mayor, the Vice Mayor shall perform the duties of the office. (Amended by: Stats. November 1988.)~~

Section 306. Chief Administrative Officer. The Mayor shall, subject to approval of the Council, appoint a Chief Administrative Officer who shall be responsible to the Mayor for the proper and efficient administration of the affairs of the City. He or she shall be a person of demonstrated administrative ability with experience in a responsible, important executive capacity and shall be chosen solely on the basis of his or her executive and administrative qualifications.

Section 307. Compensation and Tenure. The Chief Administrative Officer shall receive the salary fixed by the Mayor and approved by the Council. He or she shall be appointed for an indefinite term and shall be removable at the pleasure of the Mayor. The

action of the Mayor in suspending or removing the Chief Administrative Officer shall be final.

Section 308. Acting Chief Administrative Officer. The Chief Administrative Officer shall designate two or more of his or her assistants or department heads, in the sequence in which they are to serve, to serve as Acting Chief Administrative Officer in the event of temporary absence or disability of the Chief Administrative Officer.

Section 309. Confirmation of Directors and Department Heads. The appointment of Directors of Departments or Department Heads by the Mayor or the Chief Administrative Officer, pursuant to Section 305, shall be subject to confirmation by majority vote of the Council.

ARTICLE IV CITY OFFICERS

Section 400. Designation as Officer. In addition to the ~~Councilmen~~ Councilmembers and the Mayor, the officers of the City shall be the ~~City Manager~~ Chief Administrative Officer, the Legislative Analyst, the City Attorney, the City Clerk, the City Auditor, and such department heads, members of boards or commissions and executive officers of such boards and commissions as may be so designated by ordinance. The ~~City Manager~~ Chief Administrative Officer and the City Attorney may be hired by contract, for a term not to exceed seven years, notwithstanding the appointive and removal authority otherwise provided herein for the Council. (Amended by: Stats. November 1988.)

Section 401. City Attorney. The City Attorney shall be appointed or discharged by the Mayor subject to approval by the Council for an indefinite term. He or she shall, upon demand, be given a written statement of the reasons for any proposed removal and the right to be heard publicly at a meeting of the Council prior to the final vote on the removal, but pending such hearing and action the Council may suspend the City Attorney from office, which may at its pleasure remove him from office or reduce his salary in the same manner and subject to the same conditions as are prescribed for such actions affecting the City Manager. The City Attorney shall receive the salary fixed by the Council which shall not be reduced except upon the adoption of an ordinance and like opportunity to be heard. The City Attorney shall advise all officers, boards, commissions, and other agencies of the City on legal matters referred to him or her and shall render written legal opinions when the same are requested in writing by a member of the Council or the Mayor ~~City Manager~~ or any other officer, board or commission of the City. He or she shall draft such ordinances, resolutions, contracts and other legal documents as directed by the Council or requested by the Mayor ~~City Manager~~ or any official board or commission of the City. The City Attorney He shall act as counsel in behalf of the City or any of its officers, boards, commissions, or other agencies in litigation involving any of them in their official capacity. He or she shall pass on the form and legality of all contracts of the City before the same are executed. The City Attorney He shall not settle or dismiss any litigation brought for the City nor settle any litigation brought against the City which may be under his or her control unless upon his her written recommendation the City Attorney he is authorized to do so by the Council. He or she shall administer the office of City Attorney, and shall have the power to appoint,

discipline and remove all officers and employees of the City Attorney's his office subject to the provisions of Article IX VIII of this Charter. The Council may empower the City Attorney, at his or her request and without regard to the provisions of Article IX VIII, to employ special legal counsel, and the City Attorney he shall have the power to employ appraisers, engineers and other technical and expert services necessary for the handling of any pending or proposed litigation, proceeding or other legal matter. Upon the City Attorney's recommendation and the approval of the Council, when he or she has a conflict of interest in litigation involving another officer of the City in an his official capacity, such other officer may retain special legal counsel at City expense. (Amended by: Stats. November 1988.)

Section 402. City Clerk. The City Clerk shall be appointed or discharged by the City Manager ~~subject to confirmation by the Council~~. He or she shall be the Clerk of the Council and keep an accurate public record of all ordinances, resolutions and motions, shall have custody of the official seal and all official records committed to the City Clerk's his care, make affidavits and administer oaths without charge in matters affecting the business of the City, conduct elections, and perform the other duties of a City Clerk under general law where not inconsistent with this Charter or the ordinances of the City. (Amended by: Stats. November 1988.)

Section 403. City Auditor. The City Auditor shall be nominated and elected in the same manner, for the same term, and at the same election, as the Mayor. To be eligible to the office a person must be a qualified elector of the State of California, and shall be a resident of the City at the time of filing nomination papers and for thirty (30) days immediately preceding the date of filing, and shall be certified by the California State Board of Accountancy as a Certified Public Accountant or by the Institute of Internal Auditors as a Certified Internal Auditor. The salary of the office shall be set by the Council and may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion. The City Auditor shall have the power and it shall be his or her duty to audit the books, accounts, money and securities of all departments and agencies of the City and such other matters as the Council or the Mayor may request; to report to the Council periodically the results of such audits and to advise and make recommendations to the Mayor City Manager regarding accounting forms design, fiscal and statistical reports and the methods or procedures for maintaining the accounts and accounting system throughout all departments, offices and agencies of the City. The City Auditor shall report to the Council instances of noncompliance with accepted accounting principles where recommendations for compliance have not been implemented by the Mayor City Manager after reasonable time and opportunity. The City Auditor He shall be represented in all legal matters by the City Attorney except as provided otherwise in Section 401. (Amended by: Stats. November 1979.)

Section 404. Board of Education.

(a) The Board of Education shall consist of seven District School Directors nominated and elected by the qualified electors of their respective districts for a term of four years. The District School Directors shall be elected at the times and in the manner in this Charter provided for members of the Council and shall be required

to have the same qualifications. The School Directors' Districts shall have the same boundaries as the seven Council Districts.

The provisions of the Education Code of the State of California shall apply as to matters not provided for in this Charter.

(b) Notwithstanding any other provisions of this section, the respective terms of office of the directors of the Board of Education shall be as follows:

- (1) Directors elected or appointed to serve terms beginning in 1985 shall serve in office until 11:00 a.m. on the Monday following January 1, in 1991.
- (2) Directors elected or appointed to serve terms beginning in 1987 shall serve in office until 11:00 a.m. on the Monday following January 1, in 1993.
- (3) At the 1990 General Municipal Election, District School Director seats in Districts 2, 4, and 6 shall be filled for 4-year terms.
- (4) At the 1992 General Municipal Election, District School Director seats in Districts 1, 3, 5, and 7 shall be filled for 4-year terms thereafter.
(Amended by: Stats. June 1988 and November 1988.)

(c) No District School Director of the Board of Education may interfere with the performance by the Superintendent of the District of those duties vested in or delegated to the Superintendent of the District by statute or by act of the Board of Education. Such interference specifically includes any attempt by a District School Director to order, coerce or influence, publicly or privately, any subordinate, official or employee of the District as to any matter within the authority of the Superintendent under statute or as conferred by the Board of Education through its policies, procedures, resolutions, or minutes of meetings. Such interference will constitute official misconduct. (Added by: Stats. June 1990.)

(d) Violations of California Education Code section 7053 and 35230 and California Government Code section 1090 and 1126(a) will constitute official misconduct. (Added by: Stats. June 1990.)

(e) Any District School Director who engages in official misconduct as defined in subsections (c) and (d) above may be removed from office, pursuant to Government Code section 3060, by an accusation presented by the Alameda County Grant Jury or as otherwise provided by law. (Added by: Stats. June 1990.)

Section 405. Officers Prohibited Political Activity. The Chief Administrative Officer, the Legislative Analyst City Manager and the City Attorney shall not participate in municipal political activities or elections for municipal office, nor in any other political activities which are prohibited for city employees by state law. (Amended by: Stats. November 1988.)

~~ARTICLE V~~ ~~THE CITY MANAGER~~

~~Section 500. Appointment. The Council shall appoint a City Manager who shall be the chief executive officer of the City. He shall be a person of demonstrated administrative ability with experience in a responsible, important executive capacity and shall be chosen by the Council solely on the basis of his executive and administrative qualifications. No~~

~~member of the Council shall, during the term for which he is elected or appointed, or for one year thereafter, be chosen as City Manager. (Amended by: Stats. November 1988.)~~

~~Section 501. Compensation and Tenure. The City Manager shall receive the salary fixed by the Council. He shall be appointed for an indefinite term and shall be removable only upon the adoption of an ordinance by the affirmative vote of at least five members of the Council. He shall, upon demand, be given a written statement of the reasons for his proposed removal and the right to be heard publicly at a meeting of the Council prior to the final vote on the ordinance for his removal, but pending such hearing and action the Council may suspend him from office. The Council may not reduce the salary of the City Manager except upon the adoption of an ordinance and like opportunity to be heard. The action of the Council in suspending or removing the City Manager or reducing his salary shall be final. (Amended by: Stats. November 1988.)~~

~~Section 502. Acting City Manager. The City Manager shall designate two or more of his assistants or department heads, in the sequence in which they are to serve, as Acting City Manager to serve as City Manager in the temporary absence or disability of the City Manager. (Amended by: Stats. November 1988.)~~

~~Section 503. Powers of Appointment and Removal. The City Manager shall be responsible to the Council for the proper and efficient administration of all affairs of the City under his jurisdiction, and shall subject to the provisions of Article IX VIII of this Charter and except as otherwise provided in this Charter, have the power to appoint, assign, re-assign, discipline and remove all directors or heads of departments and all employees under his jurisdiction. He may delegate to directors or other department heads responsible to him the authority to appoint, discipline and remove subordinate employees, subject to the provisions of Article IX VIII of this Charter. (Amended by: Stats. November 1988.)~~

~~Section 504. Duties. The City Manager shall have the power and it shall be his duty:~~

- ~~(a) To execute and enforce all laws and ordinances and policies of the Council and to administer the affairs of the City.~~
- ~~(b) To attend all meetings of the Council, and its committees, unless excused, and such meetings of boards and commissions as he chooses or which he is directed to attend by the Council, and to participate in discussions at such meetings.~~
- ~~(c) To recommend to the Council such measures and ordinances as he may deem necessary or expedient and to make such other recommendations to the Council concerning the affairs of the City as he finds desirable.~~
- ~~(d) To investigate affairs of the City under his supervision, or any franchise or contract for the proper performance of any obligation running to the City within his jurisdiction.~~
- ~~(e) To control and administer the financial affairs of the City. He may appoint a Director of Finance to act under his direction.~~
- ~~(f) To prepare and submit an annual budget to the Council.~~
- ~~(g) To prepare or cause to be prepared the plans, specifications, and contracts for work which the Council may order.~~

- ~~(h) To supervise the purchasing of materials and supplies and to make recommendations to the Council in connection with the awarding of public contracts under his direction or that of the Council are faithfully performed.~~
- ~~(i) To prepare and submit to the Council such reports as it may require.~~
- ~~(j) To keep the Council at all times fully advised as to the financial condition and needs of the City.~~
- ~~(k) To prescribe such general rules and regulations as he may deem necessary or expedient to the general conduct of the administrative departments under his jurisdiction.~~
- ~~(l) When directed by the Council, to represent the City in its intergovernmental relations and to negotiate contracts for joint governmental actions, subject to Council approval.~~
- ~~(m) To devote his entire time to the duties and interest of the City.~~
- ~~(n) To perform such other duties as may be prescribed by this Charter or by ordinance or resolution. (Amended by: Stats. November 1988.)~~

ARTICLE VI ADMINISTRATIVE ORGANIZATION

Section 5600. Administrative Organization Authorized. The Council shall by ordinance, upon recommendation by the Mayor, provide the form of organization through which the functions of the City under the jurisdiction of the City Manager Mayor are to be administered. Any combination of authorized duties, powers and functions which in the judgment of the Council will provide the most efficient and economical service possible, consistent with the public interest and in keeping with accepted principles of municipal administration, may be authorized by such ordinance. All departments or other administrative agencies so created shall be administered by the City Manager or by a department head or other officer appointed by and responsible to him Chief Administrative Officer under the direction of the Mayor. (Amended by: Stats. November 1988.)

Section 5601. Boards and Commissions. The Council may create by ordinance such operational, advisory, appellate or rule making boards and commissions as may be required for the proper operation of any function or agency of the city and prescribe their function, duties, powers, jurisdiction and the number of board and commission members, their terms, compensation and reimbursement for expenses, if any, subject to the provisions of this Article. Members of boards and commissions shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council and may be removed for cause, after hearing by the affirmative vote of at least six members of the Council. Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made. (Amended by: Stats. November 1988.)

Section 5602. Continuation. The departments, agencies, boards and commissions heretofore created by prior Charter, ordinance of administrative order, other than those provided for in Articles IV, V, VI and IX of the Charter, may be modified or discontinued by ordinance adopted pursuant to this Article and are hereby continued until so modified or discontinued. (Amended by: Stats. November 1988.)

ARTICLE VII VI PORT OF OAKLAND

Section 7600. **Establishment of a Port Department.** To promote and more definitely insure the comprehensive and adequate development of the Port of Oakland through continuity of control, management and operation, there is hereby established a department of the City of Oakland known as the "Port Department."

Section 7601. **Board of Port Commissioners.** The exclusive control and management of the Port Department is hereby vested in the Board of Port Commissioners, which shall be composed of seven (7) members who shall be appointed by the Council, upon nomination by the Mayor.

No person shall be appointed as, or continue to hold office as, a member of the board who is not at the time of his appointment, and has not been continuously for four (4) years immediately preceding his appointment, and who shall not continue to be during his term, a bona fide resident of the City of Oakland.

The members of the Board shall serve without salary or compensation. (Amended by: Stats. November 1988.)

Section 7602. **Organization, Terms of Office.** The Board of Port commissioners shall consist of seven (7) members nominated by the Mayor and appointed by the Council for a term of four (4) years. Members in office at the time this section takes effect shall continue in office until their successors are appointed and qualified. For terms commencing July 10, 1969, two (2) members shall be appointed to fill the positions expiring upon that date, and two (2) additional members shall be appointed to bring the membership of said Board to seven (7); provided that the terms of such two additional members shall be for such original duration, in no event to exceed four years, as will insofar as practicable permit appointment at the end of subsequent terms of office of members, of either one or two members. (Amended by: Stats. November 1988.)

Section 7603. **Removal.** Any member of the Board may be removed from office by the affirmative vote of six (6) members of the Council in the same manner and subject to the same conditions as the Council may remove the members of any of the boards provided for in the Charter in Article VI. (Amended by: Stats. November 1988.)

Section 7604. **Ordinances and Resolution.** All action taken by the Board of Port Commissioners shall be by resolution, except as hereinafter set forth in this Article. Any member of the board may require a record of the vote on any resolution to be made in its minutes. The Board shall keep a minute book wherein shall be recorded the proceedings taken at its meetings and it shall keep a record and index of all of its resolutions and ordinances.

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least four (4) members of the Board.

To constitute an ordinance a bill must, before final action thereon, be passed to print and published with the ayes and noes at least once in the official newspaper of the City.

Provided, however, that with the approval of the Council the Board may relinquish to the Council control of portions of the said area, and likewise, upon request of the Board, the Council may, by ordinance, enlarge the Port Area.

(5) To require owners of water terminal properties and facilities within the port to keep the same in proper condition and repair and to maintain them with especial reference to the reduction of fire hazard or nuisances, and it shall have the right to inspect such terminal facilities at reasonable times.

(6) To exercise all the powers pertaining to the waterfront, wharves, dredging machines, or the port and its operation and maintenance, which have been heretofore conferred upon the City and the Council by Section 106 of this Charter.

(7) To regulate the berthing, anchoring, towing, loading, unloading and mooring of vessels within the port.

(8) To handle, store and recondition all commodities: to sell or otherwise dispose of personal property within its possession or ownership, and, generally, to perform all services customary, necessary or expedient in connection with the development and operation of the port.

(9) To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession.

(10) To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the port, and for services rendered by the Port Department, and to provide for the collection thereof.

(11) To use, for loading and unloading cargo; with the right to collect tolls, dockage and the other terminal charges thereon, such portions of the streets of the City ending or fronting upon the water areas of the harbor of said City, as may be used for said purposes.

(12) To build piers, wharves, docks, bulkheads, slips or other structures, across and upon such streets, provided only that access be provided to the public at the shoreward end thereof.

(13) To lend its aid to secure the improvement of navigable tidal waters within or adjacent to the port, where, in its opinion, such improvements are economically justifiable, and in the general carrying out of its powers to cooperate with neighboring cities, other ports, the State of California, or the United States Government, and appear before state, federal and other public legislative and administrative authorities.

(14) To manage the business of the port and promote the maritime and commercial interests by proper advertisement of its advantages, and by the solicitation of business, within or without the port, within other states or in foreign countries, through such employees and agencies as it may deem expedient.

(15) To acquire in the name of the City by purchase, condemnation, gift, lease, or otherwise take over and hold all lands, property, property rights, leases, or easements, and personal property of every kind, necessary or convenient for the development and operation of the port, or for the carrying out of the powers herein granted to the Board. Whenever the Board determines that any lands owned by the City within its jurisdiction have become unnecessary for port purposes or harbor development, it may in its discretion transfer such lands to the control of the Council, free from all restrictions, or it may sell or exchange such lands, by ordinance subject to the referendum provisions of this Charter.

(16) To purchase materials and supplies.

(17) To enter into contracts, agreements, or stipulations (other than leases) germane to the scope of its powers and duties.

(18) To let all work by contract, or order it done by day labor, as the Board may determine.

(19) To have and exercise the right of eminent domain within the "Port Area" on behalf of and in the name of the City for port purpose, harbor development or the carrying out of any of the powers granted to said Board, and to exclusively find and determine by ordinance adopted by a two-thirds vote of all of its members the public interest and necessity thereof.

(20) To appoint a Port Attorney, whose duty it shall be to pass upon the form and legality of all contracts within the jurisdiction of the Board, give legal advice to the Board on official matters, defend and (subject to direction from the Board) prosecute or compromise all actions at law or inequity and special proceedings for or against the City or any officers thereof in his official capacity, pertaining to matters within the jurisdiction of the Board. The Board shall fix and provide for his compensation.

(21) To employ and appoint an Executive Director, and such other officers, employees and agents as may be necessary in the efficient and economical carrying out of its functions and to prescribe and fix their duties, authority and compensation, and to require such officers, employees and agents to give a bond in such an amount as the Board may require for the faithful discharge of their duties. All offices and places of employment in the permanent service of the Board shall be created by ordinance duly passed.

(22) To provide and equip offices.

(23) To provide in the Port Area, subject to the provisions of Section 727, for other commercial development and for residential housing development; provided that any residential housing development shall be approved by the Board with the consent of the City Council.

(24) To provide for financing of Port facilities through the issuance of bonds or other forms of debt instruments which are secured by a pledge of, or are payable from, all or any part of the revenues of the Port and/or which may be secured in whole or in part by interests, liens or other forms of encumbrance (other than in or on fee title in land) or lease in property. Such debt instruments shall be issued and sold in such manner and upon such terms and conditions, and shall contain such provisions and covenants, as the Board may fix and establish by the provisions of one or more procedural ordinances. Such debt instruments shall not constitute a debt, liability or obligation of the City of Oakland and shall be payable exclusively from revenues and other assets of the Port.

(25) To provide for the issuance and sale, or to cause the issuance and sale, of any form of equity instruments or securities which represent interests in property (other than fee title and land) used or owned by the Port and which participate in incidents of ownership of such property; provided, that such property shall not include property of the Port which was owned or used by the Port prior to the date of the adoption of this Section. For the purpose of facilitating the issuance and sale of such equity instruments, the Port is authorized to create and to participate in legal entities, including but not limited to, trusts, corporations and partnerships, and to pledge and grant security interests, liens or other forms of encumbrance or lease in such property (other than fee title in land) to secure the repayment of such equity instruments. Such equity instruments, or combinations of debt and equity instruments, shall be issued and sold, and such entities created, in such manner and upon such terms and conditions, as the Board may fix and establish by the provisions of one or more procedural ordinances. Such equity instruments shall not constitute a debt, liability

or obligation of the City of Oakland and shall be payable exclusively from revenues, other funds and property of the Port pledged thereto.

(26) To expend all funds necessary to the carrying out of the powers and duties herein expressed.

(27) To adopt and enforce such ordinances, orders, regulations and practices as are necessary for the proper administration and discharge of its duties and powers, or for the management and government of the port, and its facilities.

(28) To prescribe fines, forfeitures and penalties for the violation of any provision of this Article, or of any ordinance, but no penalty shall exceed Five Hundred Dollars (\$500.00) or six (6) months imprisonment, or both.

(29) To have and exercise on behalf of the City all the rights, powers and duties in respect to the subject matters herein provided for, that are now or which may hereafter be vested in the City, or any of its departments or officers, or which may be provided for general law.

(30) To do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City, or any of the provisions of this Article, and to exercise all powers not in conflict with the constitution of the State, or with this Charter, germane to the scope of its powers, purposes and duties. (Amended by: Stats. November 1988.)

Section 7607. **Operation of Facilities.** Notwithstanding any other provision of this Charter to the contrary, the Board shall not be required to directly operate all of the properties, facilities and utilities under its control or jurisdiction, and shall have the power to authorize the operation of any of such properties, facilities and utilities by a private person, firm association or corporation, whether by lease, franchise, license, assignment, permit or otherwise, upon such terms and conditions as the board shall prescribe, which terms and conditions shall include control over the rates, charges and practices of said private party to the extent permitted by law. (Amended by: Stats. November 1988.)

Section 7608. **Building Permits.** No persons shall construct, extend, alter, improve, erect, remodel or repair any pier, slip, basin, wharf, dock or other harbor structure, or any building or structure within the "Port Area" without first applying for and securing from the Board a permit so to do, in accordance with the rules and regulations adopted by it. IN approving or denying the right to said permit, the Board shall consider the application therefor, the character, nature and size and location of the proposed improvement, and exercise a reasonable and sound discretion in the premises.

Provided, however, that applications for building permits pertaining to privately owned property within the "Port Area" shall be made to the Executive Director who shall consider and act upon them in the same manner as applications for such permits made to the Board. Any person excepting to any denial, suspension or revocation of a permit applied for or held by him pursuant to the provisions of this section, or any person excepting to the granting of, or to the refusal to suspend or revoke a permit applied for or held under the provisions of this section, or any person excepting to the granting of, or to the refusal to suspend or revoke a permit applied for or held under the provisions of this section, may appeal to the Board by filing with the Secretary a written notice of such appeal setting forth the specific grounds thereof. Such notice must be filed within fourteen (14) days after notice of such denial, suspension, revocation or granting, or refusal to suspend, revoke or

grant, such permit, constituting the basis of such appeal, but in no event later than thirty (30) days after the date of the denial, suspension, revocation or granting of the permit. The Secretary shall forthwith set said matter for hearing before the Board and cause notice thereof to be given (1) to the appellant, and (2) to the adverse party or parties, or to the attorney, spokesman or representative thereof, not less than five (5) days prior to such hearing. At such hearing the appellant shall show cause, on the grounds specified in the notice of appeal, why the action excepted to should not be approved. The board may continue such hearing from time to time, and its findings and conclusions on the appeal shall be final and conclusive in the matter.

Such permit issued by the Board or the Executive Director shall be in addition to any permit which may be required by law from the Building Inspector of the City. (Amended by: Stats. November 1988.)

Section 7609. **Leases.** The Board shall have the power to make and enter into any lease of any properties belonging to or possessed by the City under its jurisdiction for a term of not to exceed sixty-six (66) years, provided that all leases made shall be subject to referendum. (Amended by: Stats. November 1988.)

Section 7610. **Contracts.** All contracts shall be made and entered into in accordance with the conditions and procedures established by the Board, but subject to bid limit established by the Council pursuant to the provisions of Sections 807 and 808 of this Charter. All powers and duties therein conferred or imposed upon the Council or the City Attorney are, in relation to all matters connected with the Port, hereby conferred and imposed respectively upon the board and its attorney. Plans and specifications at the time of publication of notice inviting such bidding must be on file in the office of the board, subject to public inspections. (Amended by: Stats. November 1988.)

Section 7611. **Supervision of Leases, etc.** The Board shall take over and control, and shall have the power to grant, all leases, concessions, easements, privileges, spur tracks and other permits, wharfing out rights, and waterfront or other franchises relating to the harbor or port and located within the "Port Area" and receive the income therefrom, but this shall not include franchises for the construction and maintenance of railroads, power lines, gas mains and other utilities of a general nature which may extend through other portions of the City into the Port Area and which are within the jurisdiction of the Council pursuant to the provisions of Article X of the Charter, and subject to the supervision of the ~~Mayor City Manager~~.

It shall be the duty of the Board to see that all provisions of such leases, concessions, easements, privileges, permits, rights or franchises within its jurisdiction are faithfully observed, and it may cause to be instituted such actions or proceedings in the name of the City as may be necessary to enforce the provisions thereof, or to revoke, cancel, or annul them when they have become forfeitable in whole or in part, or are illegal, or void or voidable. (Amended by: Stats. November 1988.)

Section 7612. **Restrictions of Powers of Council.** No franchise shall be granted, no property shall be acquired or sold, no street shall be opened, altered, closed or abandoned, and no sewer, street, or other public improvement shall be located or

Between the first and final readings at least five (5) days shall elapse. The enacting clause of all ordinances passed by the Board shall be substantially in these words:

Be it ordained by the Board of Port Commissioners of the City of Oakland as follows:

All ordinances shall be signed by the President or Vice-President of the board and attested by the Secretary.

A certified copy of each ordinance adopted by the Board shall be forthwith filed with the City Clerk, and the City Clerk shall keep a record and index thereof which shall at all times be open to public inspection. (Amended by: Stats. November 1988.)

Section 7605. Ordinances Required in Certain Cases. All proceedings for the acquisition of real property by purchase, condemnation, or otherwise, or the granting of any lease longer than one (1) year, the fixing, regulating, and altering schedules of rates, dockage, wharfage, tolls, and charges for all public-owned docks, piers, wharves, slips and other facilities, and for services rendered by the Port Department, and the adoption of all general rules and regulations of the board, excepting administrative regulations of a temporary nature, shall be taken by ordinance. (Amended by: Stats. November 1988.)

Section 7606. Powers and Duties of the Board. The Board of Port Commissioners shall have the complete and exclusive power, and it shall be its duty for and on behalf of the City:

(1) To sue and defend in the name of the City in all actions and proceedings wherein there is involved any matters within the jurisdiction of the Board.

(2) To make provisions for the needs of commerce, shipping, and navigation of the port, to promote, develop, construct, reconstruct, alter, repair, maintain, equip and operate all water front properties including piers, wharves, sea walls, docks, basins, channels, slips, landings warehouses, floating and other plants or works, dredge, and reclaim land, construct, equip and operate terminal trackage with sidings and turnouts and railroad connections between docks, piers and other port structures, and connect the same with mainline tracks, and to establish, equip and operate all other facilities or aids incident to the development, protection and operation of the port as may be deemed proper and desirable in its judgment, and it may modify its plans from time to time as the requirements of commerce, shipping and navigation may demand, and as part of such development an operation to provide for tugs, dredges, fireboats, barges, cold storage plants, and all other publicly owned facilities or appliances incident to the operation of the port, of such number and character, and in such places as the Board may deem feasible and proper.

(3) To take charge of, control, and supervise the Port of Oakland, including all the water front properties, and lands adjacent thereto, or under water, structures thereon, and approaches thereto, storage facilities, and other utilities, and all rights and interests belonging thereto, which are now or may hereafter be owned or possessed by the City, including all salt or marsh or tidelands and structures thereon granted to the City in trust by the state of California for the promotion and accommodation of commerce and navigation.

(4) To have control and jurisdiction of the part of the City hereinafter defined as the "Port Area" and enforce therein general rules and regulations, to the extent that may be necessary or requisite for port purposes and harbor development, and in carrying out the powers elsewhere vested in the Board.

constructed in the "Port Area", by the City of Oakland, or the Council thereof, without the approval of the Board. (Amended by: Stats. November 1988.)

Section 7613. **Public Streets.** Whenever the Board shall determine that it is necessary to open, close, improve, alter or vacate a public street or part of a public street within the "Port Area", a certified copy of the resolution so determining such necessity shall be filed by the Board in the Office of the City Clerk, with the request that the Mayor City Manager and the Council initiate and carry to completion the proceedings necessary to effect said proposal. (Amended by: Stats. November 1988.)

Section 7614. **Personnel System.** All permanent places of employment in and under the Board shall be included within the personnel system of the City established pursuant to and subject to the provisions of Article VIII of this Charter, except the Executive Director and his two principal assistants, the Secretary of the Board, the Port Attorney and Legal Assistants, chief wharfinger, field and traffic representatives, and all persons employed in the physical or mechanical handling, moving or checking of cargo and freight. The exemption of such personnel from the operation of civil rules shall not in any way affect such pre-existing civil service rights as such employee may hold. (Amended by: Stats. November 1988.)

Section 7615. **Annual Budget.** The Board shall annually, on or before the fourth Monday of May, or not less than one week prior to the submission of the annual appropriation ordinance by the Mayor City Manager, should the Council advance the date therefor, but not later than the third Monday of July, carefully prepare a budget setting forth the estimated receipts of the Port, and revenue from other sources, for the ensuing year, and the sums of money necessarily required for the administration of the department, and for maintenance, operation, construction and development of the port and its facilities for the ensuing year, and stating the amount necessary to be raised by tax levy for said purposes. Said budget when so prepared, shall be certified by the President and Secretary of the Board, and a certified copy thereof shall, on or before said date, be filed with the Council, one with the Mayor City Manager, and one with the Auditor. (Amended by: Stats. November 1988.)

Section 7616. **Tax Levy Funds.** In the event that said Port budget, as provided for in the foregoing section, shall request or provide for the allocation or appropriation to the Port by the Council of any funds raised or to be raised or to be raised by tax levy or in any manner to be obtained from general revenues of the City, or shall request the incurring or payment of any financial obligation by the City for the Port's use and benefit, or shall not provide for Board servicing of existing or future general obligation bonds of the City issued for Port purposes, the Council shall have the authority to reject said budget and to require it to be revised to meet with Council approval, subject, however, to the Board's covenants with the holders of all of the then outstanding revenue bonds issued by the Board.

The treasurer shall keep all Port funds separate from other funds in his possession, and the Board shall have the exclusive management and disbursement of the same. (Amended by: Stats. November 1988.)

Allocation of Funds.

Section 7617 (1). All Port facilities, airport facilities and terminal facilities of any kind or character are hereby consolidated and shall be operated as a single project by the board in the interest of transportation by land, by sea and by air, it being hereby found and determined that transportation facilities of all classes implement and augment each other to such an extent that the same must in the public interest be operated singly and under one central supervision and control. Wherever in this charter the terms "port", "project", or "terminal facilities" are used, the same shall include all facilities under the jurisdiction of the Board, irrespective of whether the same shall be port or airport facilities or other real or personal property or equipment of the Port and related improvements, structures or facilities. (Amended by: Stats. November 1988.)

Section 7617 (2). All moneys once apportioned or appropriated to the Board, including, without limiting the generality of the foregoing, all moneys heretofore apportioned or appropriated to and now under the control of the Board, shall be and remain under the control and order of and shall be expended by the Board for the purpose for which apportioned or appropriated and shall be kept separate and apart from all other moneys of the City or the Board. All surplus moneys which, in the judgement of the Board, are not needed for the purpose for which apportioned or appropriated, shall be allocated to and deposited in the Revenue Fund provided for in Section 717 (3). (Amended by: Stats. November 1988.)

Section 7617 (3). All income and revenue from the operation of the port or from the facilities of the port, of whatever kind or nature, and all net income from leases or any other source of income or revenue, including, without limiting the generality of the foregoing, all such income and revenue now under the control of the Board, shall be and remain under the control and order of and shall be expended by the Board; provided that all such income and revenue shall be allocated to and deposited in a special fund in the City Treasury (which is hereby created) designated "Port Revenue Fund" and shall be kept separate and apart from all other moneys of the City or the board and shall be used and applied for the following purposes and in the following order of priority, to wit:

First: For the payment, as the same become due and payable, of the principal of and interest on any or all general obligation bonds of the City of Oakland heretofore and hereafter issued for port purposes, but only to the extent required by the constitution of the State of California or otherwise as determined by resolution of the Board.

Second: For the payment of the principal of and interest on revenue bonds, or other evidences of indebtedness payable solely from revenues as in Section 718 provided, which are due or become due during the fiscal year in which the revenues in said funds, or either thereof, are received or are to be received, together with reserve fund payments, sinking fund payments or similar charges in connection with such revenue bonds due or to become due in such fiscal year, including all payments required to be made pursuant to the terms of any resolution authorizing the issuance of revenue bonds, or required by the terms of the contract created by or upon the issuance of revenue bonds.

Third: For the payment of all costs of maintenance and operation of the facilities from or on account of which such money was received. General cost of administration and overhead of the Board not directly chargeable to each facility under its control shall be apportioned fairly by the Board, upon such reasonable basis as it may determine, to each such facility.

Fourth: For defraying the expenses of any pension or retirement system applicable to the employees of the Board.

Fifth: For necessary additions, betterments, improvements, repairs or enlargements of any facilities, and, to the extent determined by a resolution or resolutions of the Board, for replacements, renewals or reconstruction of any facilities.

Sixth: For establishing and maintaining reserve or other funds to insure the payment on or before maturity of any or all general obligation bonds of the City now outstanding or hereafter issued for any facility under the control of the Board, but only to the extent required by the Constitution of the State of California or otherwise as determined by resolution of the Board.

Seventh: For establishing and maintaining reserve or other funds to insure the payment on or before maturity of any or all revenue bonds of the board hereafter issued.

Eighth: For establishing and maintaining such other reserve funds pertaining to the facilities of the Board as shall be determined by a resolution or resolutions of the Board.

Ninth: For transfer to the General Fund of the City, to the extent that the Board shall determine that surplus moneys exist in such fund which are not then needed for any of the purposes above stated. (Amended by: Stats. November 1988.)

Financing of Harbor and Airport Operations.

Section 7618 (1). **General Obligation Bonds of the City.** The City of Oakland may from time to time incur general obligation bonded indebtedness in the manner provided by law for the acquisition, construction or completion of any port facilities or improvements of the Port of Oakland, including land, rights of way and air easements. The proceeds from the sale of any general obligation bonds now authorized, or which may hereafter be authorized, for any such purposes, shall be under the control of, and shall be expended by, the Board for the objects and purposes for which such general obligation bonded indebtedness was incurred. Whenever, in the opinion of the Board, it is desirable for the City of Oakland to incur additional general obligation bonded indebtedness for any project within the jurisdiction or control of the Board, the Board shall prepare tentative plans, estimates and bond retirement schedules and submit its recommendations in writing to the City Council, which shall thereupon take such action as it deems advisable to reject or carry out such recommendations. (Amended by: Stats. November 1988.)

Section 7618 (2). **Methods of Financing Not Exclusive.** Nothing in this Section 718 contained shall in any way abridge, control, limit, restrict or revoke the power of the electors of the City of Oakland to vote for and cause to be authorized and issued general obligation bonds of the City of Oakland for the acquisition, construction or completion of any project herein defined, or any additions thereto or betterments or improvements thereof, irrespective of whether or not revenue bonds for such purpose have been, or may thereafter be issued hereunder, and nothing herein contained shall prevent the financing of any project or any additions, betterments or improvements thereof from any other funds which may be legally available for that purpose. Revenue bonds authorized to be issued hereunder shall not be subject to charter limitations as to the amount of general obligation bonded indebtedness of the City of Oakland nor be taken into consideration in determining the amount of general obligation bonded indebtedness which the City of Oakland is authorized to incur, and the issuance of revenue bonds as in this Article VII provided shall be deemed

to constitute a supplemental and additional method of providing funds for the financing of harbor, airport or other real or personal property or equipment of the Port and related improvements, structures or facilities. Such revenue bonds shall be issued in the name of the board of Port Commissioners of the City of Oakland and shall constitute obligations only of the Board, payable in accordance with their terms from revenues of any project, as in this Article VII authorized. (Amended by: Stats. November 1988.)

Section 7618 (3). **Rates, Tolls and Charges.** Without limiting any power in this Charter conferred upon the Board, the Board has power for any of the purposes of the use of the facilities provided by any project, or for any services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the Board with respect to the fixing of such rates, tolls, fees, rentals or other charges; and, by a resolution of issues or otherwise, to enter into covenants to increase rates, tolls, fees, rentals or other charges from time to time; provided, however, that any person shall be permitted to use or operate any facilities provided by any project only upon payment of the regularly established charge therefor, except as may be otherwise specifically provided in a resolution of issue. All rates, fees, rentals and other charges shall be paid only in such coin or currency as on the date of payment is legal tender for public and private debts. (Amended by: Stats. November 1988.)

Section 7618 (4). **Authorization of Revenue Bonds.** Each issue of revenue bonds shall be authorized by the board by a resolution of issue adopted by the affirmative votes of at least five (5) members of the board at a duly assembled meeting. Each resolution of issue shall prescribe the purpose or purposes for which, and the terms and conditions on which, said revenue bonds are to be issued. (Amended by: Stats. November 1988.)

Section 7618 (5). **Validity of Revenue Bonds Not Affected by Actions of City or Board Relative to Project.**

- (a) The validity of the authorization and issuance of any revenue bonds by the Board shall not be dependent on or affected in any way by:
 - (i) Proceedings taken by the City or the Board for the acquisition, construction or completion of any project or any part thereof;
 - (ii) Any contracts made in connection with the acquisition, construction, or completion of any project; or
 - (iii) The failure to complete any project for which bonds are authorized to be issued. (Amended by: Stats. November 1988.)

Section 7618 (6). **Rights of Bondholders.** Except as provided otherwise in any resolution of issue, the holder of any bond issued pursuant to this Section 718 may, by mandamus or other appropriate proceedings, require and compel the performance of any of the duties imposed upon the Board or the City or the Council or any official or employee of the Board or the City or assumed by any thereof in connection with the acquisition, construction, completion, operation, maintenance, repair, reconstruction, completion, operation, maintenance, repair, reconstruction or insurance of any project, or the collection, deposit, investment, application and disbursement of rates, fees and charges derived from the operation and use of any project and all other revenues, or in connection with the deposit, investment or disbursement of the proceeds received from the sale of the bonds

under this Section. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds issued pursuant to this Section 718. (Amended by: Stats. November 1988.)

Section 7618 (7). **Section Confers Complete Authority.** The provisions of this Section constitute full and complete authority for the issuance of revenue bonds as herein provided by the Board and no other procedure, or proceedings, consents, approvals, orders or permission from the Council or any municipal officer or board of the City of Oakland, shall be required for the acquisition, construction or completion of any project, or the issuance of any revenue bonds under this Section 718 except as specifically provided in this Section 718. The powers and authorities conferred by this Section are in addition to and supplemental to all other powers and authorities conferred upon the Board. (Amended by: Stats. November 1988.)

Section 7619. **Moneys on Hand.** All moneys in the Harbor maintenance and Improvement Fund at the time of the adoption of this Charter and all other revenues and funds in the possession of the City set aside for port purposes, shall immediately be under the jurisdiction and control of the Board. (Amended by: Stats. November 1988.)

Section 7620. **Duties of Treasurer.** All moneys under the control of the Board shall be immediately paid over to the Treasurer of the City of Oakland, who shall have the care and custody of said funds, and shall keep separate accounts thereof, and pay out the same, as provided in this Charter. (Amended by: Stats. November 1988.)

Section 7621. **Revolving Fund.** The Board shall have authority to set up by ordinance a sufficient contingent or revolving fund from which the Executive Director shall be entitled to draw warrants directly upon the Treasurer for the prompt payment of transient laborers, and the Treasurer shall upon presentation of same, pay such warrants. Statements of such payments shall be filed with the Board at its regular meetings and shall be approved by the Board and endorsed by the President and Secretary thereof, and audited as in the case of ordinary claims. (Amended by: Stats. November 1988.)

Section 7622. **Additional Powers.** The City Council, subject to the approval of the Board, may by ordinance confer upon and delegate to the Board, from time to time, such additional powers and duties which may be vested in it, and which it may deem necessary or convenient to carry out the general purposes of such Board. (Amended by: Stats. November 1988.)

Section 7623. **Liberal Construction.** If any section, clause, word, or provision of this Article shall be held unconstitutional, the other sections, clauses, words, or provisions of this Article shall not be affected thereby. All the provisions of this Article shall be liberally construed. (Amended by: Stats. November 1988.)

Section 7624. The provisions of this Article shall supersede and control all other provisions of the Charter in conflict therewith. To all other extent, the powers, duties, and functions heretofore vested in the Council, or any of the officials, boards, or departments of the City, shall be unimpaired. (Amended by: Stats. November 1988.)

Section 7625. Port Area. The "Port Area" under the Exclusive jurisdiction of the board of Port Commissioners shall be the same area that existed immediately prior to the adoption of this Section, as it has been defined by Charter and by ordinance, and as it may hereafter be altered by Council ordinance in accordance with and upon the recommendation of the Board, or by amendment of this Charter. (Amended by: Stats. November 1988.)

Section 7626. Without denial or disparagement of other powers now held by or that may hereafter be given to the City of Oakland or its legislative bodies under or by the Constitution or the laws of the State of California, the City Council and Board of Port Commissioners are hereby authorized and empowered to grant and convey all or any portion of or interest in the tidelands and submerged lands located in the Middle Harbor area of the City, lying between the Estuary of San Antonio and Seventh Street, and westward of Bay Street extended southerly, to the United States of America for public and governmental (including military or naval) purposes, subject to such terms, conditions, and reservations, if any, as the Council and Board shall deem proper. No ordinance or other measure passed in respect to any such grant shall be subject to the referendum provisions of this Charter. All proceedings heretofore taken to accomplish such a grant are hereby ratified, confirmed and approved, and the completion thereof and making of such grant is hereby authorized. (Amended by: Stats. November 1988.)

Section 7627. Land Use and Development. The Board shall develop and use property within the Port Area for any purpose in conformity with the General Plan of the City. Any variation therefrom shall have the concurrence of the appropriate City board or commission; provided, that the Board may appeal to the Council for final determination of adverse decisions of such board or commission, in accordance with uniform procedures established by the Council. (Amended by: Stats. November 1988.)

ARTICLE VIII VII FISCAL ADMINISTRATION

Section 8700. Fiscal Year. The fiscal year for the City shall commence on the first day of July of each year. (Amended by: Stats. November 1988.)

Section 8701. Budget. Each department, office and agency of the City shall provide in the form and at the time directed by the Mayor ~~City Manager~~ all information required by him to develop a budget conforming to modern budget practices and procedures as well as specific information which may be prescribed by the Council. Not later than May 31 of each year, the Mayor ~~City Manager~~ shall prepare and present to the Council, in such form and manner as it may prescribe, budget recommendations for the next succeeding fiscal year. Following public budget hearing, the Council shall adopt by resolution a budget of proposed expenditures and appropriations necessary therefor for the ensuing year, failing which the appropriations for current operations of the last fiscal year shall be deemed effective until the new budget and appropriation measures are adopted. (Amended by: Stats. November 1988.)

Section 8702. **Levy of Property Tax.** Not later than the date set by state law for this purpose, the Council shall by resolution fix the rate of property tax to be levied and levy the tax upon all taxable property in the City. Such rate shall be adequate to meet all obligations of the City for the fiscal year, taking into account estimated revenue from all other sources. Should the Council fail to fix the rate and levy taxes within the time prescribed, the rate for the next preceding fiscal year shall thereupon be automatically effective, and a tax at such rate shall be levied upon all taxable property in the City for the current fiscal year. (Amended by: Stats. November 1988.)

Section 8703. **Cash Pool Operations.** Municipal obligations may be financed by cash pool operations and utilization of a check system (as contrasted with a warrant system). Except for those funds restricted by bond indentures, state or federal law, other sections of this Charter or specific conditions of the legislation creating them, temporary transfers between funds are permitted. (Amended by: Stats. November 1988.)

Section 804. **Funds.** The Council shall create, reduce or eliminate such Funds as are required for proper accounting and fiscal management, or required as a condition of receiving funds from any other government, or to fulfill any bonded or other contractual obligation of the City. (Amended by: Stats. November 1988.)

Section 805. **Accounting System.** The Mayor City Manager shall establish and maintain a system of financial procedures, accounts and controls for the City government and each of its departments, offices and agencies which shall conform to generally accepted principles of accounting which shall be adequate to account for all monies on hand and for all income and expenditures in such detail as will provide complete and informative data concerning the financial affairs of the City and in such manner as the Council may prescribe and as will be readily susceptible to audit and review. (Amended by: Stats. November 1988.)

Section 806. **Receipts and Expenditures.** All monies received by the City shall be deposited in the City Treasury, and no monies shall be disbursed from the treasury without the approval of the Mayor City Manager or of another officer duly authorized by him. No expenditure of City funds shall be made except for the purposes and in the manner specified by an appropriation of the Council; nor shall any disbursement be made unless obligations are properly supported by accounting evidence, sufficient money is available in the City Treasury and there is an adequate unencumbered appropriation balance in the proper account classification. The Mayor City Manager or other officer authorized by Mayor him to make disbursements shall be represented by the City Attorney in all legal matters in connection therewith, except as provided otherwise in Section 401. (Amended by: Stats. November 1988.)

Section 807. **Goods and Services.** The Mayor City Manager or an officer authorized by the Mayor him shall purchase or contract for equipment, materials, supplies and public works required by the City in the manner prescribed by ordinance, except as otherwise provided herein. (Amended by: Stats. November 1988.)

Section 808. **Bids and Awards.** The Council shall establish by ordinance the conditions and procedures for any purchase or contract, including advertising and bidding requirements,

and may provide that all bids may be rejected. The ordinance may provide that under specified conditions, which the Council must find and determine exist in each applicable instance, advertising and bidding may be dispensed with. (Amended by: Stats. November 1988.)

Section 809. **Annual Audit.** The Mayor upon approval of the Council shall engage during the first month of each fiscal year an independent certified public accountant who shall examine and report to the Council on the annual financial statement of the City. He shall have free access to the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds, and of such other officers, employees, or departments as the Council may direct. He shall submit his audit as soon as practicable after the closing of the books for the fiscal year for which he is engaged. Copies of such audit reports shall be filed with the Council, and shall be available for public inspection and review. (Amended by: Stats. November 1988.)

Section 810. **Deposit and Investment.** The Mayor ~~City Manager~~ shall arrange for the deposit in the City Treasury or designated banks of all funds collected by any department or agency of the City, according to a schedule prescribed by him. After taking into account the amounts required to meet the current and pending requirements of the City, the Mayor ~~City Manager~~ may arrange for the Term deposit or investment in securities authorized by law of any balances available for such purpose and the yield therefrom shall be credited as revenue to the general fund unless otherwise provided by law or directed by the Council. (Amended by: Stats. November 1988.)

Section 811. **Official Bonds.** The Council shall determine by ordinance which officers and employees shall be subject to group or individual bonds to insure the faithful performance of official duties, shall fix the amount of such bonds and shall provide payment of the premium of such bonds by the City. (Amended by: Stats. November 1988.)

Section 812. **Revenue Bonds.** The Council may issue revenue bonds for any lawful purpose in such manner and upon such terms and conditions as it may fix and establish by the provisions of a procedural ordinance; provided, however, that in the procedure for the issuance of any such bonds for the acquisition, construction or establishment of any gas, electric or telephone system the general laws of the State of California in force at the time such proceedings are taken shall be observed and followed. (Amended by: Stats. November 1988.)

ARTICLE ~~IX~~ VIII PERSONNEL ADMINISTRATION

Section 900. **Personnel Policy.** It is the policy of the City that there shall be a comprehensive personnel system based on merit and such system shall be continued and maintained for the purpose of providing an equitable and uniform procedure for dealing with personnel matters; to serve the mutual interests of the people, the City as an employer and its employees through accepted modern concepts and practices of public personnel administration; to attract to municipal service the best and most competent person available;

to assure that appointments will be based on merit and fitness as ascertained by practical competitive examination and by records of achievement; and to provide the employees security of tenure, with advancement or promotion within the service where practicable from among employees having appropriate qualifications, free of discrimination, subject to their adherence to established standards of performance and conduct, all as more particularly hereinafter set forth in this article. (Amended by: Stats. November 1988.)

Section 901. **Enforcement and Administration.** The provisions of this article, and of ordinances and rules adopted to give effect thereto, shall be enforced by a Civil Service Board. The Board shall be constituted and appointed as provided in Article VI. The Board shall be responsible for the general supervision of the personnel system, without impairment of the responsibility and duty of the Mayor, the Chief Administrative Officer City Manager, department heads and other supervisory personnel to exercise the administrative discretion vested in them by this Charter, or by ordinance. (Amended by: Stats. November 1988.)

Section 902. **The Competitive Service.** The Council may establish departments, divisions, offices and positions of employment by ordinance, and may change or abolish the same and prescribe their powers, functions and duties. The Council may by resolution provide for temporary employment of services when required. The competitive Civil Service shall include all offices and employments in the City government except:

- (a) Offices required by this Charter to be filled by election or to be appointed by the Mayor and City Council.
- (b) ~~Two One~~ secretary and all professional and administrative assistants in the office of the Mayor and the Chief Administrative Officer City Manager; ~~the Mayor's secretary and an assistant and such other staff as authorized by Council;~~ one secretary and one assistant to the City Attorney and the Auditor respectively; and the heads of such other departments and an assistant to each as may be provided for by ordinance. The City Manager, the Mayor, the Chief Administrative Officer, the City Attorney, and the Auditor shall respectively appoint such exempt personnel.
- (c) Department heads, one secretary to the executive director, the secretary of the board, commercial representatives and freight and cargo handlers and checkers employed by the Port Department; also such others engaged in the handling of ships and shipping as are found by both the board of Port commissioners and the action of the Civil Service board as provided for pursuant to Article VI to hold positions peculiar to the operations of the Port as a commercial enterprise.
- (d) Part-time employees who are regularly employed for less than one-half the established working hours throughout the year; or those who are employed in any seasonal employment for not more than 120 days in any consecutive 12 months.
- (e) Individuals or organizations engaged by contract after a finding by the Council or the Board of Port Commissioners, as the jurisdiction may be, that the service is of a professional, scientific or technical nature and is temporary in nature, or after finding by vote of two-thirds of the members of the Council or said Board that the performance of the service by contract, regardless of nature or term, is in the public interest because of economy or better performance; provided, that no such contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service.

- (f) Such additional positions as may be excepted upon the recommendation of the Council, approved by the Civil Service Board as provided for pursuant to Article VI. (Amended by: Stats. November 1988.)

Section 903. Provisional Appointments. When there is no appropriate eligible list, provisional appointments to positions in the competitive civil service may be made pending the creation of such lists, but such provisional employment may not extend beyond the creation of the list nor in any event may such employment be renewed or extended beyond 120 days. (Amended by: Stats. November 1988.)

Section 904. Personnel Ordinance. The Council shall by ordinance provide a modern system of personnel administration for the competitive civil service. (Amended by: Stats. November 1988.)

Section 905. Continuation. Pending adoption of the ordinance required in Section 904, the provisions of Article IX, as the same appeared in the Charter immediately prior to the adoption of this section, shall continue in full force and effect except as the same may hereafter be changed by amendment thereof in the manner provided by law for the amendment of charter provisions. Said provisions of Article IX shall cease to have any force or effect immediately upon the adoption of the ordinance required in Section 904. The rules of the Civil Service Board shall remain effective until modified as authorized by ordinance pursuant to Article VI. (Amended by: Stats. November 1988.)

Section 906. Improper Political Activity. No city employee shall engage in or participate in any political activity contrary to any general law applicable to such employee. No city officer or official shall solicit or obtain from any city employee a contribution of services, money or any other thing of value, for any election or campaign purpose. (Amended by: Stats. November 1988.)

Section 907. Nepotism. The Mayor or City Council shall not appoint as an employee or officer, to receive any compensation from the City, any person who is a relative by blood or marriage within the third degree of the Mayor or any one or more of the members of the Council, nor shall the Chief Administrative Officer ~~City Manager~~ or any other appointing authority appoint to any such position any relative of his or hers or of the Mayor or any member of the Council within such degree of kinship. (Amended by: Stats. November 1988.)

Section 908. Social Security. Provisions for an employee retirement system shall not be construed to prevent the City and its employees from participating in any state or national social security system to the extent permitted by law for public employees. (Amended by: Stats. November 1988.)

Section 909. Authority to Join Pension System. Notwithstanding the provisions of Section 1209 the City, by and through its Council, may join or arrange for reciprocity of membership in, or continue as a contracting agency in, any retirement or pension system or systems existing or hereafter created under state or federal law to or in which municipalities and municipal officers or employees are eligible, either for all such officers and employees,

or for less than all on the basis of a reasonable classification, provided that no employee or officer or classification thereof shall be unreasonably omitted from all systems referred to in this section or in Section 908 of this Charter. (Amended by: Stats. November 1988.)

Section 910. Arbitration for Uniformed Members of the Police and Fire Departments.

- (a) It is hereby declared to be the policy of the voters of the City to endeavor to establish and maintain, without labor strife and dissension, wages, hours, and other terms and conditions of employment for the uniformed members of the Police and Fire Departments which are fair and comparable to similar private and public employment. To such purpose, the voters of the City hereby recognize the efficiency of and adopt the principle of binding arbitration as an equitable alternative means to arrive at a fair resolution of terms of wages, hours, and other terms and conditions of employment for such employees when the parties have been unable to resolve these questions through negotiations.
- (b) Pursuant to the public policy hereinabove declared, the City or the recognized employee organization for the uniformed members of the Police and Fire Departments may, as the results of an impasse after meeting and conferring in good faith on matters within the scope of representation as required by applicable State law, refer any such matters which are unresolved to binding arbitration under the provisions of this Section; except that the Charter provisions concerning the Police and Fire Retirement System and such other provisions of this Charter which specifically govern wages, hours and other terms and conditions of employment of uniformed members of the Police and Fire Departments shall not be subject to change by arbitration. In any such arbitration, the arbitrator is directed to take into consideration the City's purpose and policy to create and maintain wages, hours and other terms and conditions of employment and which are responsive to changing conditions and changing costs and standards of living. The arbitrator shall also consider: the interest and welfare of the public; the availability and sources of funds to defray the cost of any changes in wages; hours and conditions of employment; and all existing benefits and provisions relating to wages, hours and terms and conditions of employment of the uniformed members of the Police and Fire Departments, whether contained in this Charter or elsewhere.
- (c) Any unresolved dispute or controversy arising under the provisions of this Section, or any unresolved dispute or controversy pertaining to the interpretation or application of any negotiated agreement covering uniformed members of the Police and Fire Departments shall be submitted to an impartial arbitrator. Representatives designated by the City and Representatives of the recognized employee organization affected by the dispute or controversy shall select the arbitrator. In the event that said parties cannot agree upon the selection of the arbitrator within five days from the date of any impasse, then the California State Conciliation Service shall be requested to nominate five (5) persons, all of whom shall be qualified and experienced as labor arbitrators. If the representatives of the recognized employee organization and the City cannot agree on one of the five to act as arbitrator, they shall strike names from the list of said nominees alternately until the name of one nominee remains who shall thereupon become the arbitrator. The first party to strike a name from the list shall be chosen by lot.

Every effort shall be made to secure an award from the impartial arbitrator within thirty (30) calendar days after submission of all issues to him.

- (d) The arbitration proceedings herein provided shall be governed by Sections 1280, et seq., of the California Code of Civil Procedure. The arbitrator's award shall be submitted in writing and shall be final and binding on all parties. The City and the affected employee organization shall take whatever action is necessary to carry out and effectuate the award. The expenses of arbitration, including the fee for the arbitrator's services, shall be borne equally by parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.
- (e) Nothing herein shall be construed to prevent the parties from submitting controversies or disputes to mediation, fact-finding or other reasonable method to finally resolve the dispute should the City and the recognized employee organization in the controversy or dispute so agree. An impasse may be declared by either the City or the recognized employee organization in the event the parties fail to reach agreement on matters within the scope of representation after meeting and conferring in good faith as required by applicable State law, or after other mutually agreed-upon settlement methods fail to result in agreement between the parties. (Added by: Stats. 1973. Amended by: Stats. November 1988.)

ARTICLE X IX FRANCHISES, LICENSES, PERMITS, LEASES AND SALES

Section 1000. Franchises, Licenses, Permits. The Council shall have authority to grant or issue franchises, licenses and permits for the transaction of business or the providing of services, or for the use of public streets or other public places, and to provide by ordinance the procedure for the granting or issuing thereof, the taxes, charges, fees or other compensation to be paid therefor and the penalties for the violation thereof. (Amended by: Stats. November 1988.)

Section 1001. Leases, Sales. The Council shall have authority to lease or sell real and personal property owned or controlled by the City in accordance with such uniform procedure as it shall adopt by ordinance, provided, however, that no lease of real property shall be for a term in excess of sixty-six years. (Amended by: Stats. November 1988.)

Section 1002. Right to Acquire. No franchise grant shall be construed to impair or affect the right of the City, acting pursuant to law, to acquire the property of the grantee either by purchase or through the exercise of the right of eminent domain. (Amended by: Stats. November 1988.)

ARTICLE XI X ELECTIONS

Section 1100. Nominating Election. Beginning in 1990, Municipal Nominating Elections for the nomination of officers and for such other purposes as the Council may

prescribe shall be held in the City on the first Tuesday after the first Monday in June in each even-numbered year. (Amended by: Stats. June 1988 and November 1988.)

Section 1101. **General Municipal Elections.** General Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the fourth Tuesday after each Municipal Nominating Election. (Amended by: Stats. June 1988 and November 1988.)

Section 1102. **Special Municipal Elections.** All other municipal elections that may be held by the authority of this Charter or of any law shall be known as Special Municipal Elections. (Amended by: Stats. November 1988.)

Section 1103. **Election Procedure.** The mode, manner, form and procedure for nominations, qualifications, petitions, filing -- including fees therefor and amounts thereof -- and elections, for elective office, may be provided by ordinance. Except as may be otherwise provided by ordinance, declarations of candidacy, nominations for election, all elections and all procedures relating thereto shall be in accordance with the applicable provisions of state law. (Amended by: Stats. November 1988.)

Section 1104. **Initiative, Referendum and Recall.** The people of the City reserve to themselves the powers of initiative and referendum and the recall of elected officials, to be exercised in the manner prescribed by general law of the State. (Amended by: Stats. November 1988.)

ARTICLE XX XI GENERAL PROVISIONS

Section 1200. **Conflict of Interest.** No officer of the City may participate on behalf of the City in any transaction or activity in which he has a conflict of interest, as such conflict is defined by State Law. The penalty for violation of this section shall be as provided by State Law. (Amended by: Stats. November 1988.)

Section 1201. **Incompatible Employment.** Each officer and employee shall, during his hours of active duty, devote his whole time, attention and efforts to his office or employment, and he may not be required to perform any service except for the benefit of the City. No officer or employee of the City may engage in any employment, activity or enterprise which has been determined to be inconsistent, incompatible or in conflict with his duties or with the duties, functions and responsibilities of the department or other agency in which he is employed. The Chief Administrative Officer, City Manager, or the City Attorney, or the Auditor, as to personnel under their respective jurisdictions, shall declare the activities which will be considered inconsistent, incompatible or in conflict with or inimical to, the duties of such personnel as City employees. In making this determination, consideration shall be given to employment, activity or enterprise which: (a) involves the use for private gain or advantage of City time, facilities, equipment and supplies, or the badge, uniform prestige or influence of one's City office of employment; (b) involves receipt by the officer or employee of any money or other consideration for the performance of any

act required of him as a City officer or employee; or (c) involves the performance of an act in other than his capacity as City officer or employee which act may later be subject directly or indirectly, to control, inspection, review, audit or enforcement by him or by the agency in which he is employed. (Amended by: Stats. November 1988.)

Section 1202. **Conflict in Office.** The Mayor and members of the Council shall not hold any other municipal office or any other office or employment to receive compensation from the City; or be appointed or elected to any office created by the Council while he is a member thereof, until at least one year shall have expired after the expiration of the term for which he was elected. (Amended by: Stats. November 1988.)

Section 1203. **Gifts and Trusts.** The Council shall have the power to accept gifts and trusts in behalf of the City and to control, manage, dispose of and otherwise administer the same in accordance with their terms. (Amended by: Stats. November 1988.)

Section 1204. **Title to Property.** All real property acquired by the City shall be held in the name of "The City of Oakland." (Amended by: Stats. November 1988.)

Section 1205. **Public Notice.** Except as otherwise provided in this Charter or by general law, the Council shall, by ordinance applying to all agencies of the City, designate the time and conditions under which adequate public notice should be given, through publication or otherwise, of the pending consideration of ordinances, invitations to bid, and awards of contracts or leases, notices of intention to grant franchise, election proceedings and other matters requiring public notice in accordance with this Charter, any ordinance enacted pursuant thereto or general state law. Publication, if required, shall be in an official newspaper designated annually by the Council, which shall be a newspaper printed and published in the City of Oakland and which shall have a daily circulation within the City of at least 25,000. (Amended by: Stats. November 1988.)

Section 1206. **Oath of Office.** Every officer of the City, before entering upon his duties, shall take the following oath and file the same with City Clerk: "I solemnly swear or affirm that I will support the constitution of the United States, the constitution of the State of California, and the Charter of the City of Oakland, and will truly and to the best of my abilities perform the duties of the office of _____." (Amended by: Stats. November 1988.)

Section 1207. **Oaths and Subpoenas.** Every officer and every member of any Board provided for in this Charter shall, in all matters relevant to his office, have the power to administer oaths and affirmations and to issue subpoenas to compel the production of books, papers and documents and to take testimony on any matter pending before him. If any person subpoenaed fails or refuses to appear or to produce required documents or to testify, said officer or the majority of the members of the board or commission may find him in contempt, and shall have power to take the proceedings in that behalf provided by the general law of the State. (Amended by: Stats. November 1988.)

Section 1208. Violation. The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction in the manner provided by State Law. (Amended by: Stats. November 1988.)

Section 1209. Previous Charter Provisions Continued. Section 91(e) added by Stats. Feb. 1959, Sections 97(f), 33(1) through 33(10), 92-1/2 through 96-3/4, 100-1/2 through 104(c), 199(d), all the sections of Article XXVI and all the sections of Article XXVII, as the same appeared in the Charter immediately prior to the adoption of this section, are by this reference hereby continued in full force and effect, and ratified, by the adoption of this section as if the same were herein printed and set forth in full. Said sections shall be printed in the appendix to this revised Charter and shall be renumbered therein as sections of said appendix. All sections and articles of the said Charter, as the same existed immediately prior to the adoption of this section, other than the hereinabove specified sections and articles thereof which are ratified and continued in full force and effect by the adoption of this section, are hereby repealed by the adoption of this section. (Amended by: Stats. November 1988.)

Section 1210. Construction and Separability. If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the remainder of this Charter and the application of such provisions to other persons or circumstances shall not be affected thereby. (Amended by: Stats. November 1988.)

Section 1211. Effective Date. This Charter shall take effect upon the filing with the Secretary of State of the concurrent resolution of its approval by the State legislature. (Amended by: Stats. November 1988.)

Section 1212. Gender References. All gender references in this Charter shall be considered neutral in form and context. (Amended by: Stats. November 1988.)

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